

Supplementary Analysis Report: Funding Arrangements for Parliament

Coversheet

Purpose of Document	
Decision sought:	<i>Analysis produced following a Regulatory Impact Assessment that did not meet Quality Assurance criteria</i>
Advising agencies:	<i>Office of the Clerk Parliamentary Service</i>
Proposing Ministers:	<i>Leader of the House</i>
Date finalised:	27 SEPTEMBER 2022
Problem Definition	
<p>The Parliamentary Service and the Office of the Clerk are the parliamentary agencies that directly support the function of Parliament. They are not part of executive Government but 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.</p> <p>Funding for the two agencies is determined using the same contestable process applied to all public sector agencies. However, the interests of the executive and Parliament will not always align with regard to funding. Governments will prioritise bids that meet their own objectives. This means that funding for uniquely parliamentary purposes are unlikely to be prioritised.</p> <p>A number of reviews of funding arrangements for Parliament, undertaken by the statutory Appropriations Review Committee (ARC), have raised concern regarding the appropriateness of executive Government holding budgetary power or influence over Parliament. In particular, these reviews have highlighted the potential for this arrangement to diminish the separation of powers and that the ability of Parliament to hold the Government to account could be compromised.</p>	
Executive Summary	
Background <p>On 19 April 2022, Cabinet approved key policy proposals to draft a new Parliament Bill to amend, consolidate, and update existing legislation administered by the Office of the Clerk and the Parliamentary Service (the parliamentary agencies). One of the amendments agreed by Cabinet is to replace current budgetary processes for the Parliamentary Service and the Office of the Clerk with a process in which agency appropriations are</p>	

recommended to the House by a parliamentary select committee.¹ The bill is intended to be introduced in November 2022.

The Quality Assurance panel considered that the Regulatory Impact Assessment (RIA) that accompanied the policy proposals relating to the funding of Parliament at Cabinet did not meet the Quality Assurance criteria. This Supplementary Analysis Report (SAR) has been undertaken to address the panel's assessment that:

- There was insufficient analysis of the potential costs of implementing option 3, in which an independent or semi-independent body would recommend the appropriations for parliamentary agencies to the House.
- There was insufficient analysis of whether a legislature-led process would give parliamentary agencies the funding they think they need and the estimated costs of that proposal, in particular in respect of Party and Member support funding.
- The analysis in part 2 (which relates to disestablishing the ARC) lacked depth, meaning there was not enough analysis to know whether the ratings assigned to the analysis table are accurate.

Because the supplementary analysis work on the funding arrangements for Parliament does not present major changes to the original policy objectives or their expected regulatory impact, the parliamentary agencies have proceeded by updating the existing RIS rather than undertaking a new one.

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 ARC in 2015. This was the option agreed by Cabinet.

Benefits of preferred option

This option would ensure constitutional propriety by providing the greatest independence of Parliament from Government. At the same time it would balance the Government's fiscal

¹ CAB-22-MIN-0136.

responsibilities by providing a mechanism for financial veto (the Government would be able to exercise a veto in respect of all or part of the agencies' appropriations if they had more than a minor impact on fiscal aggregates).²

This option 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. Having a more transparent process for parliamentary funding that allows for public participation and scrutiny should contribute to public trust and confidence in Parliament.

Costs of preferred option

An assumption has been made that a new funding model for the parliamentary agencies may increase their funding. However, it has also been assumed that an increase of funding for Parliament would increase Parliament's (and members' and parties') effectiveness, and increase the public's engagement with Parliament. We have also assumed that members of Parliament are aware of the negative perceptions that significantly increasing Parliamentary funding could have, and would act in line with that awareness.

Administrative impacts

We expect any additional costs to support the administrative arrangements for the new process to be negligible as the new arrangements would take advantage of support services already provided by the Office of the Clerk to the House of Representatives in respect of other select committees. Office of the Clerk regularly supports new select committees (for example, the Pae Ora Legislation Committee) out of existing resources. The Office of the Clerk also already has funding set aside for the purchase of specialist advice to select committees (such as the specialist adviser proposed below). This funding may need to increase in order to provide advice to an additional select committee, but is likely to be lower than the existing cost of establishing and supporting the ARC.

Limitations and Constraints on Analysis

The funding arrangements for Parliament will have no direct regulatory bearing on private businesses, organisations or citizens. As such, changes to the legislative framework on this matter would not introduce any new regulatory burden for private businesses, organisations, or citizens but would change the financial environment within which the parliamentary agencies operate.

There are limitations on how the impacts of the proposals in this SAR can be assessed specifically or quantitatively. This is mainly because the reforms are intended to improve the separation of powers and Parliamentary independence. Therefore, the measurable impacts of these reforms will not be realised for some time and further work has been done to operationalise the change in approach to Parliamentary funding.

While we have investigated the operation of funding arrangements in other, similar, jurisdictions, there are insufficient similarities between these Parliaments and our own to produce useful comparable data.

² "Fiscal aggregates" is defined in Standing Order 3 as the Government's intentions for fiscal policy, in particular for the following: total operating expenses, total operating revenues, the balance between total operating expenses and total operating revenues, the level of total debt, and the level of total net worth.

We have assumed that the Standing Orders would be changed to help facilitate the preferred options. These assumptions are further discussed in the relevant sections.

Consultation

The Quality Assurance panel also commented that the RIS had not had the benefit of wider viewpoints testing the options. They recommended consideration be given to opportunities for targeted consultation, such as an exposure draft bill. We consulted with the following during the development of the proposals in the Bill:

- Government agencies: the Office of the Auditor-General; the Public Service Commission; and the Treasury. The Treasury did 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 supported 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.

During this initial consultation on the policy proposals and the RIS, parliamentary political parties did not express extensive views.

To increase Ministers' confidence when considering the policy proposal, further consultation with parties will be undertaken in October 2022, where this SAR will be circulated with a draft Parliament Bill for further scrutiny. In addition, this SAR and a draft Parliament Bill will be circulated to affected public sector agencies.

The timeframe for the Bill does not allow us time to consult the public, which does limit our analysis. However, the public will be able to have their say on the policy proposals in the Bill during its select committee stage.

Responsible Manager(s) (completed by relevant manager)

<p>David Wilson Clerk of the House</p>  <p>27/09/2022</p>	<p>Rafael Gonzalez-Montero Chief Executive Parliamentary Service</p>  <p>27/09/2022</p>
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Quality Assurance (completed by QA panel)

<p>Reviewing Agency:</p>	<p>A special quality assurance panel was convened to consider the Regulatory Impact Statements for the Parliament Bill. Its members are from the Ministry of Business, Innovation and Employment (including the Chair), and the Parliamentary Service.</p>
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Panel Assessment & Comment:

The Panel considers that the information and analysis summarised in the SAR partially meets the Quality Assurance criteria. In making this assessment, the Panel noted that the analysis lacks supporting evidence in places and does not always fully account for the risk of some underlying assumptions failing to materialise. There is a sense of backfilling analysis to support the preferred option. Consultation remains limited but this may be mitigated by the intention to circulate the SAR with a draft bill.

Section 1: Diagnosing the policy problem

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

1. This SAR follows on from a RIS (Funding arrangements for Parliament) which did not meet Treasury's Quality Assurance criteria. That RIS had two parts, "Funding arrangements for the Parliamentary Service and the Office of the Clerk" and the "Role of the Appropriations Review Committee". The previous Quality Assurance panel highlighted concerns that the analysis of the part of the original RIS in part 2, which related to disestablishing the Appropriations Review Committee (ARC), lacked depth. Upon reflection, we consider that as the role of the ARC is an integral part of the current funding arrangements for the Parliamentary Service, it should be considered as part of the existing framework and not separately. Accordingly, this SAR addresses those two parts together as one policy proposal.

Funding arrangements for the parliamentary agencies

2. The Parliamentary Service and the Office of the Clerk are not part of executive Government. They are parliamentary agencies that support the legislature.³ They administer Votes containing appropriations for outputs for that purpose. They are treated as departments for the purposes of the Public Finance Act 1989 (the PFA).
3. 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.
4. The majority of Vote Parliamentary Service is non-departmental funding. Approximately half of the funding in Vote Parliamentary Service is for members to use for parliamentary purposes.⁴ This funding supports the legislature to undertake its core constitutional functions: legislating, appropriating, representing, and scrutinising the Government. This funding is subject to an independent triennial review by an ARC. Another portion of the funding in Vote Parliamentary Service is to maintain the parliamentary complex, which is a Crown asset.
5. The majority of the funding in Vote Office of the Clerk is for the provision of secretariat services for the House of Representatives. This includes professional advice and services designed to assist the House in the fulfilment of its constitutional functions and to enable participation in, and an understanding of, parliamentary proceedings. There is also a small allocation to support engagement with international parliamentary organisations and other parliaments, as well as Speaker-led diplomacy
6. Funding for the two parliamentary agencies is determined as part of the same contestable process applied to public sector agencies. Agencies put Budget proposals to the Treasury, who advise executive Government on appropriate levels of funding across Government. Funds are appropriated by an Act of Parliament. The Speaker is the responsible Minister for appropriations administered by the Office of the Clerk and

³ One of the three branches of government, consisting of members of Parliament and the Sovereign.

⁴ <https://www.treasury.govt.nz/sites/default/files/2022-06/est22-v4-parser.pdf>.

the Parliamentary Service.⁵ The PFA introduced these arrangements for the two parliamentary agencies.

7. Every three years, the ARC recommends funding adjustments to the portion of the Votes that are for members to use for parliamentary purposes. This funding, which is to support the legislature, is subject to the same Government process as public service departments.
8. In the Commonwealth Parliamentary Association's 2005 report on the Administration and Financing of Parliament, it noted:

Given that one of the key purposes of Parliament is to hold the executive to account, there is a compelling argument that Parliament should be able to discharge its constitutional responsibilities free from government interference. The drive for independence should not be seen as an aggressive action, but a necessary prerequisite to good parliamentary governance. Also operational autonomy should not act as a barrier to the fostering of good relations with the executive, which is essential if legislation and public sector policies are to be fit for purpose.

9. The report goes on to say that "The principle that Parliament should have freedom to determine its budget is formally recognized in the [Commonwealth] Latimer House Guidelines⁶ between the three branches of government, which state that: An all-party committee of Members of Parliament should review and administer Parliament's budget which should not be subject to amendment by the executive."
10. The Clerk of the House and the Chief Executive of the Parliamentary Service expressed their views about how the agencies are funded to the Governance and Administration Committee on 14 April 2021.⁷ They noted that a special arrangement exists to determine the funding for the Officers of Parliament⁸ that recognises their positions as offices of the legislature. The arrangement is established in Parliament's Standing Orders and recognised in legislation. The Clerk and Chief Executive expressed the view that a similar model would be more appropriate for the parliamentary agencies as well.
11. The special arrangement gives the Officers of Parliament Committee (a specialist select 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.

⁵ Public Finance Act 1989, sections 2(1) and 7C(3).

⁶ [Commonwealth \(Latimer House\) Principles on the Three Branches of Government, February 2009.](#)

⁷ [Briefing on the funding arrangements for the Office of the Clerk and the Parliamentary Service - Office of the Clerk and Parliamentary Service.](#)

⁸ The Officers of Parliament are the Ombudsmen, the Auditor-General and the Parliamentary Commissioner for the Environment.

The role and function of the Appropriations Review Committee

12. At least once during every term of Parliament, the Speaker must establish an 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.⁹ 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.¹⁰ 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.
13. The ARC was designed to be an independent body charged with recommending the resources benchmarked for the funding of members' support. Their review was intended to be in the nature of an expert investigation, not a public inquiry, so was not aimed at ensuring transparency. The ARC's reports are recommendatory but were intended to assist in the budget process. The ARC's terms of reference, set out in section 21 of the Parliamentary Service Act 2000, effectively charge it with producing a cost-effective, soundly based assessment of resource needs.¹¹
14. In practice, however, the ARC plays no part in the budget process. Instead, the ARC reviews the efficiency and effectiveness of the funding appropriated for Parliament. It makes recommendations, but it is left to political processes to decide whether those recommendations will be adopted.

Appropriations Review Committee Reports (2015, 2018, and 2022)

15. The three most recent ARCs advocated for the funding of Parliament to be more independent of executive Government.

Sixth triennial ARC (2015)

16. 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.¹²

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

⁹ 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.

¹⁰ The Parliamentary Service Commission is a body representing members that is responsible for advising the Speaker as to what services are to be provided to the House 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.

¹¹ Report of the Government Administration Committee on the Parliamentary Service Bill, 2000.

¹² Report of the Fifth Triennial Appropriations Review Committee, 6 November 2015, pages 87.

*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.*¹³

*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.*¹⁴

*The legislation should include an independent review similar to the current triennial review to ensure Parliamentary funding is adequate and effectively managed.*¹⁵

Seventh triennial ARC (2018)

17. 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.
18. 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. Its 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 triennial review becomes to ensure the formulas remain fit-for-purpose. Periodically, a major review of the funding formulas would be required.*¹⁶

*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.*¹⁷

¹³ Ibid, pages 87 and 88.

¹⁴ Ibid, page 88.

¹⁵ Ibid, page 89.

¹⁶ Report of the Seventh Triennial Appropriations Review Committee, 17 August 2018, page 18.

¹⁷ Ibid, page 47.

Eighth triennial ARC (2022)

19. The 2022 ARC recently finished its review. The committee's report was presented the House on 23 August 2022. Like the sixth and seventh triennial ARCs, the eighth ARC supported proposals to separate the funding of the legislature from that of the executive. It said:

New Zealand's strong democracy is underpinned by the separation of powers between the three branches of government: the Executive, Legislature (Parliament) and Judiciary. This principle is intended to prevent abuses of power, as each branch acts as a check on the others.

Successive Appropriation Review Committees have heard concerns that the current process for setting the level of funding for MPs, parties and services arguably weakens this constitutional separation as it is not independent of the Executive.

While not part of the Executive, the Parliamentary Service, including the entitlements it administers, is treated as a government department for the purposes of the Public Finance Act 1989. The Speaker must seek agreement of the Minister of Finance and then Cabinet to recommendations of the triennial Appropriations Review Committees relating to changes in funding levels.

The level of resourcing for Parliament is therefore ultimately decided by the Government of the day and determined alongside priorities for wider public spend.

20. All three most recent ARC reports highlight the importance, from a constitutional perspective, of having funding for the legislature being separate from decisions of the executive, which the legislature is tasked with scrutinising.

What is the policy problem or opportunity?

Policy problem

21. 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 through the agencies that support it in the same way that Government departments and other Crown entities do. Then the Cabinet determines the funding to be provided to each, based on Government priorities, 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.
22. The interests of the executive and Parliament will not always align with regard to funding. Governments have responsibility for the country's fiscal strategy and management of public accounts. Therefore, governments will prioritise bids that meet their own objectives. This means that 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.
23. The crux of the problem is how to balance the Government's fiscal responsibilities, whilst retaining Parliament's independence of the executive. As an example of where funding for parliamentary purposes have been deprioritised, the parliamentary agencies have for

a number of years sought funding to improve public engagement with Parliament. The proposals have included engagement both through 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.¹⁸
- 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 had to make savings elsewhere, although it had already significantly cut costs. This is particularly difficult at a time when 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

¹⁸ The proposals included broadcasting select committees on Parliament TV, and producing the fifth edition of "Parliamentary Practice in New Zealand" (PPNZ).

- 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.¹⁹
- 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 could do to make select committee proceedings available and ensure that the public have access to Parliament.
- The lack of funding in this area meant that select committee hearings were not made available online until 2019.

24. While it is technically feasible for a Vote to be altered by Parliament itself, for example by way of Select Committee recommendation or, potentially, a motion in the House, this does happen in practice. The nature of the House’s consideration of the Estimates makes that process an impractical mechanism to provide sufficient control over funding decisions relevant to the operation of Parliament.
25. We have made an assumption that if funding were determined through a select committee process, the bids such as those above would be more likely to be supported (as they would not be constrained by having to align with Government priorities). Proposals for funding would be looked at solely on their merits and, without having to be compared to, and prioritised against, other funding that fulfils Government objectives (as opposed to parliamentary objectives).
26. Even if the assumption outlined above did not provide more funding to Parliamentary agencies (on the basis of the Government using its veto power or the select committee not agreeing to the funding proposal), it would still deliver a benefit above the status quo. This is because the funding would be approved by the legislature and not the executive. Therefore it recognises that the executive should not be able to control funding of the body that scrutinises its activity.

The ARC

27. The ARC is established once each parliamentary term to review the amounts of money appropriated for the following purposes:
 - 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.
28. Recommended adjustments to funding are reported to the Speaker by the ARC. The Speaker must seek advice from the Parliamentary Service Commission on any changes

¹⁹ [2016/17 Estimates for Vote Office of the Clerk - response to written questions](#)

to the Speaker's Directions (which specifies funding allocations for members and parties) arising from the ARC's recommendations, which then result in budget bids. By convention the Speaker seeks cross-party support for changes to the Speaker's Directions.

29. There are several problems with the ARC process:
1. 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. The recommendations also apply for the following term of Parliament, so can last up to 5 years. 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.
 2. 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 funding specifically for members and parties.
 3. 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.
30. In addition, recommendations made by ARCs are often not adopted²⁰. Examples of recommendation that have not been supported include:
1. That the Leader of the Opposition should receive funding to second staff from government departments to support policy development.
 2. Establish an innovation fund, overseen by the Speaker and the PSC, which is available to support projects that seek to enhance services provided to members.
 3. The formula for calculating non-staff funding for members should be changed to reflect the change in the ways members use their electorate and community offices, to provide more recognition of the different sizes of electorates, and to simplify the structure of the member allocation.
 4. Move to a more principles-based, permissive approach to the use of member and party funding, with appropriate support, oversight, and transparency.
31. Following the Report of the seventh ARC, the National Party did not support the recommendations "noting the smaller, list-dominated parties of the coalition would get far more funding under the proposed scheme". The Leader of the House (representing the governing Labour Party) then commented that "an increase in funding for Parliamentary support is not a priority for the coalition Government and we will not be taking up the recommendations".

²⁰ The 7th ARC made 25 recommendations. Of the 6 that were adopted, only two had funding implications.

Policy Opportunity

32. There is an opportunity to re-consider how Parliament is funded, in a way that better supports the separation of powers and better resources the parliamentary agencies to fulfil their functions. New Zealanders expect more from their Parliament and the parliamentary agencies have had to adopt new ways of achieving results, particularly in light of the COVID-19 pandemic. The cost of providing services and facilitating an effective parliamentary system is not served by the current funding model.
33. A new model could incorporate the principle that Parliament controls its own affairs and is separate from executive government. There is an opportunity to consider how to better decide on how much funding parliament needs each year, rather than base it on the existing ARC recommendations, which is a triennial process.
34. If a new approach were adopted, it does raise the question of how the Government manages its responsibility for the overall fiscal position and strategy. Even if the parliamentary agencies' Votes represent a small proportion of public funds managed by the Crown, that responsibility is eroded. This is addressed in options section.

What objectives are sought in relation to the policy problem?

35. The objectives of this policy are that:
 1. 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.
 2. The House of Representatives should control its own affairs, while also being fiscally responsible with, accountable for, and transparent in, its use of public money.
 3. The Government should retain the ability to determine when proposals for parliamentary funding are not affordable or affect the Government's fiscal strategy.

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

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

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

Criterion	What it means
Constitutional Propriety	<ul style="list-style-type: none"> Upholds principle that Parliament controls its own affairs Provides clear separation for the legislature from the executive
Adequacy	<ul style="list-style-type: none"> Funding is sufficient to carry out the role of supporting Parliament Funding is efficiently and effectively provided
Transparency and Accountability	<ul style="list-style-type: none"> Participants in parliamentary duties are responsible for their actions The public has access to sufficient information to hold participants to account who are involved in the process of funding parliament
Independence, Discretion and Neutrality	<ul style="list-style-type: none"> Maintains public trust and confidence in Parliament's integrity Maintains the trust and confidence of the House
Fiscally responsible	<ul style="list-style-type: none"> Funding process does not adversely affect the Government's fiscal strategy Mitigations exist to prevent unsustainable funding increases over time
Fits with Budget cycle	<ul style="list-style-type: none"> Funding process fits within normal Government budget cycle

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

What scope will options be considered within?

- 38. The scope of the options considered was limited to those proposed in the original RIS. This was because the Quality Assurance panel did not raise concerns that further options needed to be considered – rather, the options that were presented needed greater analysis and detail.
- 39. Throughout our analysis we have considered options together with mitigations to avoid significant additional cost, because seeking very large amounts of additional public funding is not appropriate in the current economic climate.
- 40. We have considered relevant experience from other, comparable, Parliaments when setting the scope for options identification. In particular, we reviewed parliamentary funding arrangements in Australia, the United Kingdom, and Canada:

	Australia (Federal)	United Kingdom	Canada
Funding ultimately controlled by	Government	Parliament	The Board of Internal Economy of the House of Commons (the governing body of the House of Commons).
Relevant legislation and process	<p>Funding for parliamentary departments is provided for separately through passing of annual Appropriation (Parliamentary Departments) Acts.</p> <p>From 2000–2001, budgets for the parliamentary departments have been prepared using an accrual basis.</p>	<p>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.</p> <p>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.</p> <p>The Estimate, which is customarily not debated, is approved by the House. It is then included in the Supply and Appropriation (Main Estimates) Bill.</p> <p>The House of Commons Commission is supported by two Select Committees of the House (and made up of members) which act as advisory bodies to the Commission: the Administration Committee (which recommends improvements to services) and the Finance Committee (which considers expenditure and the House's budgets).</p> <p>The Commission is also supported by the Administration Estimate Audit and Risk Assurance Committee (AEARAC). The House of Commons has two Audit Committees, one for each of its Estimates.</p>	<p>The Parliament of Canada Act establishes the Board of Internal Economy of the House of Commons and sets out its functions.</p> <p>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.</p> <p>All recognised parties (i.e. those holding at least 12 seats in the House) are given representation on the Board. Decisions of the Board are made on a non-partisan basis.</p> <p>The Board examines and approves the annual estimates of the House of Commons²¹, which include the costs of both members and the House Administration.</p> <p>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.</p>

21 <https://www.ourcommons.ca/DocumentViewer/en/41-2/PROC/report-3/>.

41. 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.
42. 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, or adjust (increase or re-appropriate) funding to respond to unforeseen circumstances (such as the COVID-19 pandemic). It would also limit the House's ability to regulate its own affairs.

What options are being considered?

43. 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

44. Under the status quo, decisions relating to funding of the parliamentary agencies remain with the executive, and the two agencies are subject to the same budget-setting process as Government departments. 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. On a triennial basis, this will include any adjustments to funding which have been made by the ARC, and supported by the Parliamentary Service Commission.
45. 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.
46. Under this model, parliamentary funding is determined based on government priorities. It is assumed that future funding amounts for the parliamentary agencies would be similar to what is currently included in the Votes, unless government priorities were to change. Under this model, there is a risk that the funding may be inadequate for the parliamentary agencies to effectively support Parliament.
47. The status quo does provide for a high level of transparency, as Treasury provides independent fiscal scrutiny. Parliamentary agencies are subject to the normal financial scrutiny processes, and are held to account in the same way as government departments. Although the assessment that Treasury provides is independent, the bids for the parliamentary agencies are assessed based upon the priorities of the Government of the day.

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

48. 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 Chief Executive of the Parliamentary Service and the Clerk of the House consult the Treasury about the initial budget proposals for their respective agencies.
 2. The Chief Executive of the Parliamentary Service and by the Clerk of the House submit to the select committee the budget proposals for their respective agencies.
 3. The recommended process would be for the select committee to seek advice from the Treasury and also from an independent expert adviser (to focus on the reasonableness of the funding proposals to the extent that they benefit members and parties).
 4. The select committee considers its proposals for the draft appropriations, including caucus consideration.
 5. The select committee reports to the House recommending the proposed appropriations for each of the two Votes (Parliamentary Service and Office of the Clerk).
 6. A Minister lodges a notice of motion for the appropriations to be commended to the Governor-General. This could be preceded by a process within the Executive branch for the Minister to obtain approval (by Cabinet, Cabinet committee, or joint Ministers) to lodge the notice of motion. This step would recognise the Crown's fiscal initiative and should be a formality, as the Government will already have had the opportunity to raise and resolve concerns before the select committee reports.
 7. The House commends the proposed Votes to the Governor-General by way of an Address, for the Votes to be included in an Appropriation Bill.
49. If a new approach were established for the funding of the parliamentary agencies, then the Committee would in effect be incorporating the role of the ARC. Therefore, the ARC would no longer be required. For each of the last 2 parliamentary terms, \$200,000 has been appropriated to cover the costs of the ARC.
50. 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. The parliamentary agencies support and enable the operations of individual members, parties, and the House, who scrutinise and hold the executive to account.
51. The arrangement for an Officers of Parliament type model 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:
 - are part of the legislative branch of Government, not the executive
 - 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.

52. However, there are some 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.

53. Treasury 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. However, other than its preferred option of maintaining the status quo (Option 1), and their next preference of a Select Committee Process (recommendations and Budget bid process) (Option 2B), then this is most viable for Treasury.

Mechanism for financial control

54. Parliamentary agencies' funding currently accounts for 0.15%²² of all Government expenditure. While there is an assumed risk that this option will lead to an overall increase in Vote funding for Parliament's operations, any increase is likely to be small in the context of the overall Government expenditure. Any increase would also be for the important purpose of adequately supporting Parliament and members of Parliament to discharge their functions.

55. The assumption for an increase in funding is based on the fact that the funding will not have to align with Government priorities and will not have to be prioritised against other funding that Government is allocating. Like the Officers of Parliament model, the funding proposals will be assessed by a cross-party group of members. Decisions will be made purely on the merits of the proposals, not based on how well the proposals fit within the Government's fiscal strategy and Government priorities of the day.

56. However, to mitigate the potential risk of Parliament adopting adjustments to funding that are at significantly at odds with the Government's fiscal strategy (or perhaps, are simply unaffordable) a mechanism is needed for the Government to exercise control when necessary. It is therefore intended that this option be supported by amendments to the Standing Orders to include a specific financial veto provision (in addition to that in SO 334) to ensure the Government can exercise a veto in respect of the proposed agency appropriations or part of the appropriations. This option therefore retains a good level of

²² The Treasury, Summary Tables for the Estimates of Appropriations 2022/23, Vote Office of the Clerk, Vote Parliamentary Service.

fiscal responsibility for the Government's overall budget; the Government may exercise the financial veto if it considers that is required.

57. This is different to the existing Officers of Parliament model, where the Government does not hold a financial veto power for Officers of Parliament budgets in the same way that is proposed for the parliamentary agencies. The Government instead has to rely on existing financial veto powers in SO 334.
58. Treasury has indicated that if this option were adopted, they would prefer (rather than amending the Standing Orders) the PFA be amended to include a statutory restriction that limits the relevant appropriations individually and cumulatively as a Vote to having no more than a minor impact on the Crown's fiscal aggregates. Arguably, compliance with a statutory restriction would need to be supported by a form of statutory veto of recommendations that do not comply. The judgement about whether proposed expenditure will have more than a minor impact on the fiscal aggregates would be a political one for the Government. Treasury consider that amendments to the PFA to prospectively limit spending is a more appropriate method to ensure financial control than the ability to exercise a financial veto after a select committee has recommended appropriations.
59. We do not agree with the Treasury's position. It is an important constitutional principle that the House regulates its own procedures. Incorporating a direct statutory restriction on the decision-making of a select committee is constitutionally inappropriate, as is providing a statutory veto process of a select committee's recommendation to the House. In contrast, the financial veto is an internal procedure of the House. Here it would involve the presentation of a veto certificate in the House to prevent select committee recommendations, lodging of a notice of motion, or an amendment to a motion. These are House procedures that should not be regulated by statute. The Standing Orders are the appropriate mechanism. In this case, a non-legislative option is not just available; it is more appropriate.²³
60. Further, a statutory mechanism such as a statutory restriction would be counter to the policy objective of strengthening the separation of powers by mitigating the potential limitation of the House's control over its operations through executive control of funding available for House to operate. (RIS at [41]). It would potentially have a chilling effect on political conversations about the suitable funding of Parliament.
61. Finally, a statutory provision would require a definition in law of the fiscal aggregates. The PFA refers to this term (ss 26F and 26Q) but does not define it. The term "fiscal aggregates" is defined in the Standing Orders (SO 3) with reference to the Government's intentions for fiscal policy. The application of the term is a matter of political judgement, which is why it is appropriately applied by a Minister in the context of particular proceedings in the House itself. A prospective provision or statutory veto would necessarily involve legal interpretation about inherently political matters.

²³ The Constitution Act 1986 previously provided a statutory mechanism that was repealed in 2005 (bills or motions requiring appropriations needed a message from the Crown). This was appropriate for statute because it dealt with the relationship between the Governor-General and the House. It was repealed precisely because the veto mechanism is available in the Standing Orders.

62. In exercising a veto, Ministers are politically accountable. They must present veto certificates in the House, and the certificates are debatable and are published on the parliament website.
63. None of these accountability mechanisms would be available for the exercise of a prospective provision, and implementing them for a statutory veto provision would be difficult without impinging on the House's control of its rules.
64. Conversely, a statutory provision that defines what it is for proposed appropriations to have more than a minor impact on the fiscal aggregates could affect the Government's exercise of the veto in the House. It would mean that a Government, in the House, could be constrained from vetoing a provision that had a lower fiscal impact than that indicated by application of the statutory provision outside the House.

Further mechanisms for financial control

65. There are a number of additional mechanisms that could be used by the relevant select committee to manage the assumed risk that over time funding would gradually increase. Many of these can take place at the same time as each other. The approach taken would be determined by the committee, which would be made up of members representing all parties in Parliament.
66. One example is that the committee could institute criteria for parliamentary funding. The criteria would function in a similar way as Government priorities, as a baseline against which requests for funding are assessed. This would introduce a transparent and impartial way of analysing funding criteria, and make sure that any bids put up by the parliamentary agencies are justified and needed to achieve the agencies' objectives.
67. It could also be desirable for a Minister to attend the select committee (unlike the Officers of Parliament process, which tends not to involve Ministers directly) to give the Government an opportunity to raise and resolve concerns about fiscal parameters for agency appropriations, before the committee reports on recommended appropriations.
68. Another option could be for the committee to adopt a formula-driven approach, such as was recommended by the seventh ARC,²⁴ to setting and adjusting the monies appropriated to fund members and parties.
69. 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. The differences in appropriations within the Votes for parliamentary agencies are not well understood by the general public, meaning that any proposal that asks for a large increase in funding is likely to be questioned by members (even if it is for departmental functions rather than members' funding). This is likely to balance the risk of substantial funding increases being recommended.

²⁴ 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."

70. 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 the committee would be likely to appoint an independent adviser to provide advice to the committee. If independent advice recommending funding increases is provided to the committee, then this would absolve members of any perception that they were increasing funding for their own benefit. This is because it would be an independent assessment of the funding that Parliament needs to do its job effectively, rather than for any self-interested reasons.
71. We also assume that any formal advice given to the committee would be made public, in accordance with standard committee procedures to ensure transparency. 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. The arrangements for the committee's consideration of funding would likely be set out in Standing Orders to maximise transparency and accountability.
72. 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.²⁵ 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.
 - 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.²⁶
 - c. The Standing Orders will be amended to facilitate the use of this proposed model. As the Standing Orders are an internal procedure of the House, they cannot be amended by legislation (such as the Parliament Bill). If the Standing Orders were not changed, the select committee process could still operate in the way described above; the Votes could be, for example, referred to an existing select committee to undertake this process. However, we consider that it is highly likely that the Standing Orders would be amended to provide explicitly for the proposed model. The Standing Orders are subject to a triennial review cycle by the specialist Standing Orders Committee. This committee has representation across parties and recommends changes are made to the Standing Orders. Additionally, the House can adopt sessional orders that supplement or suspend Standing Orders, which can be done out of the triennial review cycle.
73. The funding in Vote Parliamentary Service is split into two types of funding; funding to support members directly, and to support departmental functions. Vote Office of the Clerk

²⁵ 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.

²⁶ The Officers of Parliament Committee has membership from all the parties represented in Parliament.

does not provide any direct funding to members, but supports departmental functions to support the House. Both of these types of funding support the legislature discharge its functions, so this model is more appropriate for separating powers. This model increases the independence and neutrality for both types of funding.

74. 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.
75. 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

76. We consider that this option strengthens the separation of powers, in particular preventing any limitation of the House's prerogative to control its own affairs. Although the executive (through the Treasury) would provide advice to the committee, it does not control the funding of the legislature. 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 for members to exercise their constitutional and parliamentary functions while also maintaining fiscal responsibility for public funds.²⁷
77. 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 and thereby contribute to public trust and confidence in Parliament. If the committee were unreasonably to disregard advice from Treasury, for example, they could be held publicly accountable because the advice would be publicly available. Having greater transparency encourages public participation and scrutiny, which supports holding decision-makers to account. With the shift to a select committee, there is also the ability for greater public engagement.
78. The select committee model would replace the role that the ARC has in determining whether funding for members and parties is appropriate. This means that there would potentially be a cost saving (of about \$200,000 per parliamentary term). Although the provision of specialist advice to the committee would incur some cost, it is unlikely to be as large as the cost for the ARC; which requires the paying of members, machinery of establishing the group, advice and outsourcing of writing the report, and secretariat support. It is likely that the select committee would be supported by existing secretariat services at Office of the Clerk and members of the committee would be part of the committee as part of their role as members of the Parliament (rather than outsourcing to ARC members). Based on existing specialist advisers provided to select committees, the cost of a specialist adviser to the committee would be much less than the \$200,000 is currently appropriated for the ARC. This process would also be relatively easy to set up. Office of the Clerk is well-versed at setting up and supporting new committees within existing resources.

²⁷ New Zealand Journal of Public and International Law, vol 15 (2017), Designing for Legitimacy: A Systems Perspective, Kerkin, S.

79. 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 for the appropriations given to support members are reasonable and appropriate. Although select committee members are not independent of members and parties (as is the case with the ARC model), public perception will provide for mitigation of appropriations being larger than is needed to fulfil Parliament's overall functions.
80. The Treasury noted limitations 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. However, this option addresses the current timing issue that occurs with ARC reports, which project funding level for the following parliamentary term (up to five years in advance if the ARC presents its report in the first year of a parliamentary term, as it typically does).
81. This model would create a further exception to the executive controlling decisions about which proposals for public expenditure are put before Parliament. 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. Although the Treasury's advice is not always followed by the Officers of Parliament Committee, it is a key point of consideration for the committee and is regularly followed.
82. By amending the Standing Orders to include a specific financial veto provision related to this proposal allows the Government to exercise its fiscal responsibilities and mitigate the risk of unaffordable funding increases for the parliamentary agencies.
83. 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.
84. The Officers of Parliament, like the parliamentary agencies, are acutely aware that they are spending public money and that this must be done efficiently and effectively. When Officers of Parliament provide Budget proposals to committee, it is with this in mind. In general, Officers of Parliament are satisfied with the funding they receive through this process. Their requests are not always agreed to, but they often are.
85. We consider that the proposed model does not create a precedent that could apply to other entities, such as independent Crown entities that do not form part of the legislature, as this option relates solely to the legislative agencies and affirms the separation of powers. We also consider that the proposed model does not create a precedent for the

judiciary. Although the judiciary is also a separate branch of government from the executive, funding for that branch is administered by the Ministry of Justice through Vote Courts. Additionally, support to the justice system is provided by public servants, who are employed by the executive. This is distinctly different from the parliamentary agencies, who administer their own Votes and whose employees are not tied to the executive.

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

86. 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:
1. 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)
 2. The Treasury would provide separate advice to the committee about the requested funding
 3. The committee would consider the requests and advice before making its final decisions
 4. The committee's recommendations would form part of the parliamentary agencies' Budget bids, during the bidding process.
87. This option does not strengthen the separation of powers, and executive control and determination 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.
88. There are multiple of the same outcomes for this option as with Option 2A:
1. The current ARC process is replaced by a select committee process, that would allow for both independent and Treasury advice.
 2. Removing the ARC means that there is a potential cost saving (of up to about \$200,000 per parliamentary term), with specialist advisers likely to be cheaper than the full establishment of an ARC.
 3. Select committee could be supported by existing secretariat services at Office of the Clerk and members of the committee would be part of the committee as part of their role as members of the Parliament (rather than outsourcing to ARC members).
 4. With the shift to a select committee, there is also the ability for greater public engagement.
 5. 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.
 6. To mitigate any concern about whether members of Parliament should be making decisions about public funding that could benefit them directly, we also consider that

independent advice could be sought by the committee. Any formal advice given to the committee could be made public for transparency.

7. 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. The arrangements for the committee's consideration of funding would likely be set out in Standing Orders to maximise transparency and accountability.
8. This would be a relatively easy process to implement. Office of the Clerk is well-practiced as helping form new select committees and provide secretariat and procedural support to them. The process for hiring specialist advisers also already exists within Office of the Clerk.
89. It is assumed that under this option, Parliament would not receive the funding that is needed, as any increase in parliamentary funding would need to align with Government priorities. However, from a Government perspective, it does mean that complete control of parliamentary funding remains with the Executive, meaning that the funding for parliamentary agencies can be fit within the Government's overall fiscal strategy.
90. The Treasury noted the same limitation on timing with this option, as with Option 2A. 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. However, this option addresses the current timing issue that occurs with ARC reports, which project funding level for the following parliamentary term (up to five years in advance if the ARC presents its report in the first year of a parliamentary term).
91. 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

92. 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. This option removes executive control of funding, but determination of parliamentary funding is still subject to decisions and analysis by an external body. However, it would allow the House to retain fiscal control of its own Budgets and keep the context of the wider budgetary concerns in mind.

93. 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 Commission (HoCC).²⁸ The United Kingdom model relies on support from additional committees which recommend improvements to services, and advise on expenditure and the House's budgets. Therefore, it is assumed if an independent or semi-independent body were established for the New Zealand Parliament, it would need to also require expert financial advice (similar to the level of independent advice our Finance and Expenditure Committee receives).
94. The cost of establishing and running an independent or semi-independent body is difficult to ascertain. Any costs saved in disestablishing the ARC are likely to be used up in providing support for the new independent body. To help ascertain the expected costs, there are three useful comparators:
1. The HoCC meets monthly, with additional meetings as required. Although the HoCC is responsible for more matters than this option is proposing (i.e. the delivery and administration of services to members and Parliament), if the semi-independent body included three lay members (and members of Parliament themselves absorbed the new role without payment), it would cost approximately \$57,000 per annum for the equivalent number of meetings.²⁹
 2. To be provided with independent advice (based on that sought by New Zealand's Finance and Expenditure Committee) it would cost approximately \$140,000 per annum³⁰.
 3. The body may also require administrative support. The cost of administrative support services for the 8th ARC is \$95,000 for four months work. It is assumed that this level of support could be provided across a year (periodically).
95. The above analogies provide some guidance as to potential costs. However, as this would be a completely new body that is unlike any existing one, the analysis is somewhat constrained.
96. This option would also require details about the body to be set out in the legislation:
- d. *Number of members:* Depending on the option chosen, this could comprise representatives of all parties represented in Parliament and/or three part-time expert members who are not members of Parliament.
 - e. *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.

²⁸ 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.

²⁹ An assumption has been made that similar expertise to that of ARC members would be required, and this figure reflects the estimated cost of two ARC members' fees and expenses in 2022.

³⁰ Based on the actual period of 5 Nov 2021 – 30 Sept 2022 which cost \$139,380.

- f. *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.
 - g. *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.
97. The time and resourcing costs of setting up a new body, providing for it in legislation, and creating its rules and membership are much more than the other options considered.
 98. Though a number of reviews³¹ of the HoCC (as a comparative body) have been undertaken, they have focused on committee membership, governance, operations, and transparency, rather than the appropriateness of the funding model and the level of funding that the House of Commons receives.
 99. 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 it requires legislation to establish an independent or semi-independent external body that would be responsible for making funding recommendations. This would also require transparency and accountability measures to be legislated for as an independent or semi-independent advisory body outside of the parliamentary structure would not be subject to the usual public processes that a select committee would be. However, this option does make the process statutorily independent.
 100. The timing of the independent body process would also have to happen prior to the normal Budget process, so that any flow-on effects from the House's agreement to the parliamentary agencies' Votes are taken into account in the Budget.
 101. However, this model is likely to deliver more funding to parliamentary agencies than under the status quo. An independent body is able to consider the amount of funding required without having to factor in other Government priorities. This is similar to the current role of the ARC, but has the benefit of recommending this in a more timely fashion (each Budget rather than every three years) and making its recommendations directly to the House to consider.

³¹ [House of Commons Commission, House of Commons Services: Report to the House of Commons Commission by a team led by Sir Robin Ibbs, 27 November 1990 \(Session 1990–91, HC 38\); Review of Management and Services: Report to the House of Commons Commission by a team led by Mr Michael Braithwaite, 26 July 1999 - HC 745, 1998-99; Kevin Sir Tebbit \(author\), Great Britain: Parliament. House of Commons Commission, Published: 25 June 2007.](#)

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 the 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</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
	excellence. Can affect the quality of service provided to MPs.			
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 advice to the committee 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 funding decisions 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 an independent assessment, but it assesses bids based upon priorities of Government of the day.	0 Funding not influenced by Government priorities.	0 Funding based on Government priorities. However, recommendations made by select committee, which has membership from all political parties in Parliament.	++ Statutory independence maintains trust in process. Neutrality of parliamentary agencies preserved.
Fiscally responsible	0 Government retains control over its own fiscal strategy	0 Select committee makes recommendations to the House, which has control over Budget Government may exercise financial veto if recommendations do not align with Government's fiscal strategy.	0 Government retains control over its own fiscal strategy	0 Independent body makes recommendations to the House, which has control over Budget

	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
Fits with Budget cycle	0	0 Decisions must be made earlier than Budget cycle, but mitigated by removing the ARC model (which only provides recommendations every three years).	0 Decisions must be made earlier than Budget cycle, but mitigated by removing the ARC model (which only provides recommendations every three years).	0 Decisions have to be made earlier than Budget cycle, but mitigated by removing the ARC model (which only provides recommendations every three years).
Implementation Difficulty	0	0	0	- Creation of a permanent independent body has some complexities, and is time-consuming
Value for Money	0	+ There is a cost saving in disestablishing the ARC. The extent of this saving would depend on how much specialist advice the committee sought (but it is expected to be less than the cost of the ARC).	+ There is a cost saving in disestablishing the ARC. The extent of this saving would depend on how much specialist advice the committee sought (but it is expected to be less than the cost of the ARC).	- Creation of a permanent independent body has a cost. The costs saved in disestablishing the ARC would largely be used to cover the costs of establishing the independent body.
OVERALL ASSESSMENT	0	++ Much better than doing nothing/the status quo	+ Better than doing nothing/the status quo	+ Better 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?

- 102. The three options (other than the status quo) have minor differences. However, we prefer **Option 2A (the select committee model (recommendations to the House))**.
- 103. This option would provide the best combination of constitutional propriety, adequacy of funding, independence, Government’s fiscal responsibility, 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.
- 104. This option provides a mechanism for the Government to exercise control (by way of financial veto in the Standing Orders), should the select committee recommend funding increases which adversely affect the Government’s fiscal strategy, however unlikely this might be.
- 105. Under this option the funding to maintain the parliamentary complex, which is a Crown asset, is excluded from this funding process.

What are the marginal costs and benefits of the option?

- 106. Option 2A would use existing administrative resources and we anticipate no additional operational costs. By replacing the role of the ARC, there is a potential cost saving of up to \$200,000 per parliamentary term. Any costs arising from additional funding being granted to the parliamentary agencies can be mitigated.

Affected groups (<i>identify</i>)	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
Others (e.g. wider govt, consumers, etc.)	Public Risk process seen as lacking independence and external fiscal scrutiny (mitigated)	Low (with mitigations)	Medium
	Wider government	Low (funding for Parliamentary)	High

	Risk that if Parliament does get more funding, there is less available for wider government	agencies represents about 0.15% of Government's total Budget)	
Total monetised costs	<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
Non-monetised costs	<i>Public</i> Risk process seen as lacking independence and external fiscal scrutiny (mitigated)	Low (with mitigations)	Medium
Additional benefits of the preferred option compared to taking no action			
Regulated groups	<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
Regulators	Nil	Nil	High
Others (e.g. wider govt, consumers, etc.)	<i>Public</i> Adequate funding for parliamentary representatives. Improves efficacy and advocacy	Medium	Medium
Total monetised benefits	<i>Members of Parliament/ Parliamentary agencies</i> It is assumed that there would be adequate funding to perform parliamentary functions effectively.	Cannot be quantified as matter is for Parliament to decide	Medium
	<i>Parliamentary Service</i> A cost saving in not establishing an ARC each parliamentary term.	Low (\$0.2m)	High
Non-monetised benefits	<i>Legislature</i> Enhanced separation of powers	High	High
	<i>Public</i> It is assumed that there would be adequate funding for parliamentary representatives. Improves efficacy and advocacy	Medium	Medium

Section 3: Delivering an option

How will the new arrangements be implemented?

107. 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.
108. Implementation is likely to include the following:
 - a. Amending Parliament's Standing Orders to prescribe the name, role and functions of the select committee, and the provisions for financial veto. 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. Including the disestablishment of the ARC in the Parliament Bill.
109. If the Parliament Bill is enacted in July/August 2023, the new arrangements would apply to Budget 2024/2025, as the funding process would begin in the latter half of 2023.
110. 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.
111. 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?

112. We expect that any significant problems with the new legislation will become evident within five years of it coming into force. We will develop plans for on-going review as an element of implementation. However, as part of normal stewardship processes, we will monitor progress during that five-year period to see how well the legislation met the policy's original objectives. We would do this by contacting the key stakeholders, including members of Parliament and parliamentary parties. Regular meetings with the Parliamentary Service Commission will also provide an opportunity to discuss the operation of the funding arrangements for the parliamentary agencies.
113. We would also work with the Department of Internal Affairs, who would continue to administer a small part of the Bill (relating to ministerial funding matters), to report to the Speaker and the Leader of the House on the operation of funding arrangements and any desirable legislative refinements based on stakeholder (including the Treasury and the relevant select committee) comment.