

Foresight, insight and oversight: Enhancing long-term governance through better parliamentary scrutiny

*E wherawhera ana te matakana i te huarahi ki tua
The keen eye probes the path to the future*

Jonathan Boston, David Bagnall and Anna Barry
June 2019



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Jonathan Boston, David Bagnall and Anna Barry,
with Tui Head, Gabor Hellyer and Pavan Sharma

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Foreword

In New Zealand, our democratic government is one of our strengths. Our democracy operates on the basis of parliamentary sovereignty, where Parliament – made up of the elected representatives of the people – is the supreme power. Yet, like any human institution, our systems of governance are less than perfect and, more positively, capable of improvement following rational consideration. For various reasons, there are serious concerns that our systems are too focused on the immediate issues of the day and less on the variety of long-term problems that may be, or indeed are, around future corners.

This report – a collaboration between the Institute for Governance and Policy Studies at Victoria University of Wellington and the Office of the Clerk of the House of Representatives – addresses this problem in terms of setting out considered policy options to make government more accountable to Parliament, and hence the people, for the quality of its long-term decision-making. The report is a welcome, timely and systematic contribution to advancing a very important discussion on improving our democracy. The Institute is delighted to be associated with it.

Dr Simon Chapple

Director

Institute for Governance and Policy Studies

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Abbreviations

4YP	four-year plan
CBD	Convention on Biological Diversity
CPA	Commonwealth Parliamentary Association
DHB	district health board
DPMC	Department of the Prime Minister and Cabinet
FEC	Finance and Expenditure Committee
GDP	gross domestic product
ICEs	independent Crown entities
ICT	information and communications technology
IFI	independent fiscal institution
IGPS	Institute of Governance and Policy Studies
IRD	Inland Revenue Department
LGBTI	lesbian, gay, bisexual, transgender and intersex
LSF	Living Standards Framework
LSF Dashboard	Living Standards Framework Dashboard
LTIPs	long-term investment plans
LTPs	long-term plans
MP	member of Parliament
MSPs	members of the Scottish Parliament
OAG	Office of the Auditor-General
ODESC	Officials Committee for Domestic and External Security Coordination
OECD	Organisation for Economic Co-operation and Development
OOC	Office of the Clerk of the House of Representatives
PAC	Public Accounts Committee
PCE	Parliamentary Commissioner for the Environment
PLP	Parliamentary Law and Practice
POST	Parliamentary Office of Science and Technology
RSNZ	Royal Society of New Zealand Te Apārangi
SDGs	Sustainable Development Goals
SFG	Strategic Futures Group
SOs	Standing Orders
SOC	Standing Orders Committee
SLTFP	statement on the long-term fiscal position
SPCB	Scottish Parliament Corporate Body
TPP	Trans-Pacific Partnership
UN	United Nations
UNFCCC	United Nations Framework Convention on Climate Change

Brief biographical notes

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Executive summary

Overview

This report has been prepared through a partnership between the Office of the Clerk of the House of Representatives (OOC) and the Institute for Governance and Policy Studies at Victoria University of Wellington. The primary purpose of this partnership is to “develop policy options for parliamentary scrutiny of long-term governance and stewardship” (see appendix 1).

In the first instance, the report provides ideas for the triennial review of Parliament’s Standing Orders: these are the rules that govern the operations of the House of Representatives (the House) in New Zealand. But it also has a broader goal, namely to contribute to public debate on enhancing the quality of the country’s long-term governance, thereby better protecting the wellbeing of current and future citizens.

The report outlines a series of options for enhancing parliamentary scrutiny of long-term governance. These fall into five main categories:

1. changes to the Standing Orders designed to enhance the capacity of, and incentives for, Parliament to scrutinise governmental performance, particularly with respect to long-term governance
2. improvements to the structures and systems of advice for Parliament
3. changes designed to enhance the engagement of parliamentarians on long-term issues (e.g., via new advisory and scrutiny mechanisms)
4. changes to current policy and statutory frameworks, including institutional, reporting and procedural arrangements
5. reforms of a constitutional or quasi-constitutional nature.

Specific proposals are outlined in table E.1 and discussed briefly below. While each proposal has the potential to enrich the quality of parliamentary scrutiny, the best approach would be to implement an integrated package of measures. Such a package should seek to enhance the different ‘layers’ or forms of scrutiny that contribute to parliamentary oversight: political scrutiny, institutional scrutiny, formal accountability and public scrutiny.

Of course, there is scope for disagreement about what constitutes a desirable package of reforms. The report’s goal is to encourage informed deliberation and build cross-party support for a better scrutiny model.

This executive summary briefly outlines the scope, contents and findings of the report. Details of the research undertaken are described in chapter 2.

Governing for the future – the challenge of safeguarding long term interests

Governing well for the future is hard for multiple reasons. The future is inherently uncertain. Surprises, both positive and negative, are inevitable. Societies face multiple risks: natural hazards, climate change, disruptive technologies, terrorist attacks and destructive pests, to name but a few. Mitigating and managing such risks is complex and often costly.

Citizens, and those who represent them in Parliament, have numerous goals, some of which conflict. Policy trade-offs are thus inevitable. Some of these are intertemporal in nature. For instance, short-term costs must be borne to secure long-term benefits or reduce long-term harm. Governments have political incentives in such circumstances to favour short-term over long-term interests.

Governing well for the future encounters other hurdles. It is not simply that governments have multiple, and often competing, goals or face intertemporal trade-offs. Even when broad agreement is reached on a society's desired goals, uncertainty often remains about how best to achieve them. For instance, the relevant evidence may be unavailable, unclear or in dispute. Equally, there may be disagreement about how progress should be assessed, including how different indicators should be interpreted and weighted. For such reasons, evaluating and scrutinising the quality of governance is not straightforward.

Scrutinising *long-term* governance poses additional challenges. Information about the past performance of a nation or government is much more readily available – and more reliable – than information about their likely future performance. Forward-looking scrutiny is thus more problematic than backward-looking scrutiny. But it is no less essential. It is vital for citizens to know whether their government is exercising wise stewardship. For instance, is it anticipating future risks and opportunities, and responding accordingly? Is it taking a sufficiently precautionary approach, especially when confronting the risk of severe and/or irreversible impacts? Is it effectively maintaining and investing in long-term infrastructure? Is it seeking to enhance societal resilience and sustainable development? Is it having proper regard to the reasonably foreseeable needs of future generations?

Although assessing the quality of stewardship and sound 'anticipatory governance' is challenging, a range of evaluative criteria can be identified, as outlined in chapter 3. Policy-makers seeking to govern well for the future must wrestle with, and seek to apply, such criteria. Parliamentarians, and others who are charged with scrutinising their performance, must do likewise.

Scrutiny function of Parliament

Parliamentary scrutiny of the executive branch of government is fundamental for political accountability. It provides a crucial means for elected representatives to identify current and projected policy problems, poor decision-making processes, ineffective implementation and corrupt practices. It is equally vital in enabling members of Parliament (MPs) to examine whether a government is adequately safeguarding the interests of current and future citizens. Effective political accountability, in turn, is essential for building and maintaining public trust in the institutions of government and upholding the legitimacy of the democratic system. Robust accountability entails, among other things, the effective exercise of foresight, insight and oversight.

New Zealand's parliamentary system has various layers and forms of scrutiny (see chapter 5). These include:

1. *public scrutiny* and awareness of the quality of governance, often focused through the media, online conversations, and institutions, such as the courts and independent agencies
2. *political scrutiny* of governments undertaken by MPs (e.g., via question time in the House and through select committee processes)
3. the *institutional layer*, which helps and complements the scrutiny conducted by MPs. This includes the work of the Officers of Parliament (i.e., the Office of the Auditor-General (OAG), the Parliamentary Commissioner for the Environment and the Ombudsman), the two legislative agencies (i.e., the Parliamentary Service, which includes the Parliamentary Library, and the OOC, and the formal rules and procedures of the House, which trigger and facilitate scrutiny processes)
4. the *formal accountability system* provided through the statutory framework for public sector management, including financial management, performance management, monitoring and reporting requirements, and internal controls within public agencies.

Despite these multiple layers of scrutiny, Parliament's incentives for, and capacity to, undertake rigorous and systematic oversight of the executive branch, including both backward-looking and forward-looking scrutiny, are significantly constrained. Notable limitations include:

- the small size of the House, which restricts the availability of MPs to sit on select committees and encourages strong party discipline
- the dominance of the House by the executive, even with minority governments
- the high workload of select committees and tendency for long-term matters to be crowded out by higher-priority business, such as legislation
- select committees' modest use of independent expert advice.

Wider institutional and administrative factors, including the current systems of performance management and reporting within the public sector, impose additional limitations.

Perspectives on parliamentary scrutiny

The current limitations of parliamentary scrutiny were well recognised by many of those interviewed for this report. Overall, a broad message was that important aspects of the existing parliamentary scrutiny arrangements are inadequate. The 'institutional' layer of scrutiny was perceived to be relatively sound and effective, though with scope for improvement. Against this, many interviewees argued that the 'political' layer is not providing satisfactory scrutiny. The existing system was variously described as 'weak', 'inadequate', 'cursory', 'patchy' and 'unduly partisan'. Many interviewees also maintained that New Zealand's model of parliamentary scrutiny compares unfavourably with those in other advanced democracies (the scrutiny of legislation being a notable exception). Similarly, few dissented from the proposition that parliamentary scrutiny of long-term matters is limited and generally deficient.

At the same time, interviewees differed on the nature and causes of the problem, and the extent to which improvements are possible. While most interviewees broadly supported reform, they did not agree on the best way forward. Many different proposals were advanced. While some focused on changes to parliamentary structures, processes and procedures, others concentrated on improving the quality and quantity of independent advice available to Parliament; yet others involved changes to public policy, public management and constitutional law. Among those who expressed a view, the general preference was for gradual, evolutionary change. Finally, a common perception among interviewees was that significant reform would be difficult to achieve, at least in the near term, and realism is needed about what might be possible.

Lessons from overseas experience

Various scrutiny arrangements in other parliamentary democracies were explored, with particular reference to the scrutiny of long-term governance (see chapter 6 and appendices 3–6). The following findings deserve mention.

First, parliamentary systems vary greatly in terms of their electoral arrangements, whether they have a unicameral or bicameral system, the number of elected representatives, the structure of their committee systems, the resources available to help MPs and committees, the extent to which they have access to independent (i.e., non-government) expert advice, and their formal scrutiny processes and mechanisms. While New Zealand can learn from overseas models and experience, it is important to recognise the distinctive features of our constitutional arrangements and the implications of these for parliamentary scrutiny.

Second, many parliaments, especially those in smaller democracies and at the subnational level, appear to undertake relatively little systematic scrutiny of an explicitly long-term or forward-looking nature (e.g., assessing how well governments are preparing for the future, and mitigating and managing risks).

Third, it is hard to identify any best approach internationally for ensuring high-quality parliamentary oversight, including scrutiny of long-term governance and stewardship. Similarly, there is no readily apparent 'silver bullet'. Yet, if forward-looking scrutiny is to be undertaken well (e.g., in a proactive, systematic and rigorous manner), a comprehensive approach with multiple mechanisms (including specific institutions, 'commitment devices' and procedural triggers) is likely to be necessary.

Fourth, in designing any system of forward-looking parliamentary scrutiny, it is vital to consider the nature of statutory obligations on governments to undertake foresight, planning, risk assessments and fiscal projections, and to tailor parliamentary arrangements accordingly.

Fifth, efforts to improve parliamentary scrutiny of long-term governance in other jurisdictions include at least six main approaches, which are to:

1. establish statutory requirements for legislatures to approve the long-term plans and strategies of governments
2. establish requirements for legislatures to review governmental reports on long-term policy issues
3. create parliamentary committees that focus primarily on the conduct of major policy inquiries, some of which have significant long-term implications
4. create parliamentary committees specifically dedicated to exploring long-term or future-focused matters, including the conduct of foresight exercises or the scrutiny of the Government's long-term strategies
5. create future-focused bodies bringing together legislators and representatives of major civil society organisations and research institutions (e.g., Scotland's Futures Forum)
6. create or strengthen independent institutional arrangements to provide advice to legislators on major policy issues or help legislators to undertake their long-term scrutiny functions. These arrangements include providing additional analytical and research support for parliamentary committees and establishing new parliamentary institutions dedicated to future-oriented issues.

Developing an agenda for reform – important considerations

Four broad considerations must inform any efforts to enhance parliamentary scrutiny of long-term governance: the desirability of having clear criteria to assess the merits of the proposed reforms; the need to recognise that any reforms will be constrained by various constitutional considerations; the need to take proper account of the evolving policy landscape; and the desirability of a systematic and integrated approach.

Assessment criteria

Any proposals to enhance the current model of parliamentary scrutiny need to be assessed against clear criteria. Chapter 5 outlines four such criteria: political and public engagement, robustness, impact and durability. It is recognised, of course, that applying these criteria poses challenges. For instance, it is often hard to predict the likely impact of specific changes on political behaviour or policy outcomes. Similarly, some changes may satisfy several criteria but not others. Ideally, the aim should be to implement a package of reforms that best satisfies the suggested criteria.

Constitutional considerations

Any proposed reforms must have regard to New Zealand's constitutional arrangements. Three matters deserve mention in this context. First, the Crown has obligations under the Treaty of Waitangi and the various principles that it embodies. One is the important concept of kaitiakitanga, which means guardianship and protection. Exercising wise guardianship, as discussed in chapter 3, is fundamental to good long-term governance. Second, as highlighted in chapter 5, by convention, any changes to the Standing Orders require overwhelming support: they cannot be imposed by a simple parliamentary majority. In effect, this means that any amendments require cross-party support. Third, some of the wider changes suggested by interviewees, such as increasing the term of Parliament to four years, would require endorsement in a referendum.

Evolving policy landscape

Efforts to enhance parliamentary oversight should go hand in hand with initiatives to improve the quality of the overall framework of performance management, including monitoring, reporting and policy evaluation. In this regard, many reforms under way, as discussed in chapter 4, will affect the context, resources and opportunities for parliamentary scrutiny. This includes proposed changes to the State Sector Act 1988 and Public Finance Act 1989, the development of a wellbeing approach to budgetary management, and the establishment of an independent fiscal institution. At the time of writing, the precise nature and extent of these reforms remained uncertain. Accordingly, their implications for the different layers of parliamentary scrutiny, including the role of the OAG, cannot be properly assessed. In these circumstances, any strategy to enhance parliamentary scrutiny of long-term governance will need to be flexible and iterative. Further changes to the Standing Orders may be needed, once the proposed legislative reforms have been enacted.

No silver bullet ... so a broad, systematic approach is needed

It is clear from the structures, procedures and practices of legislatures in other parliamentary democracies that there is no ideal or perfect way to design a framework for parliamentary scrutiny, whether for assessing the quality of governance generally or, more specifically, for assessing *long-term* governance. Similarly, no single, simple reform – whether to the Standing Orders, the term of Parliament or the system of public management – is likely to generate transformative change or dramatic improvements. This is because the incentives and capacity for legislatures to undertake scrutiny of a government's performance (including future-focused scrutiny) are affected by numerous constitutional, institutional, analytical and cultural factors.

As highlighted in chapter 5, any endeavour to improve parliamentary scrutiny, and specifically the scrutiny of long-term governance, must engage with, and ideally strengthen, each layer of scrutiny – the political layer, the institutional layer (i.e., in both the legislative and executive branches), formal accountability and public scrutiny. In short, a concerted, holistic and systematic approach is required. This must include changes to the Standing Orders. But it must also consider a broader package of reforms. Ideally, these should be complementary, integrated and reinforcing.

A suggested package of reforms

Bearing these considerations in mind, table E.1 outlines options designed to enhance the quality of parliamentary scrutiny, and the scrutiny of long-term governance in particular. Several options are alternatives to each other and should not be implemented together. Some proposals build on or expand existing practices and arrangements; others entail new approaches, including new procedures and institutional arrangements.

The suggested reforms are designed to achieve enhanced scrutiny by:

- strengthening the incentives for parliamentarians to extend their temporal horizons and give greater attention to long-term policy matters
- bolstering various procedural triggers and other commitment devices to help ensure that long-term matters receive more systematic parliamentary scrutiny
- improving the capacity of select committees to undertake forward-looking scrutiny, most notably through additional independent sources of research, analysis and advice.

It is recognised that some of the suggested changes (e.g., the creation of a Scottish-type Futures Forum and the appointment of a Chief Parliamentary Science Advisor) would entail additional fiscal costs. While the proposals outlined in this report have not been costed, three matters need highlighting. First, any additional costs would be relatively modest when set against current public expenditure on Parliament and its respective agencies. Second, the costs should not be considered in isolation from their expected benefits. Better parliamentary scrutiny of long-term governance has the potential to contribute to large savings in future fiscal costs, as well as generating significant social and environmental benefits. Third, a healthy and vibrant democracy does not come cheap. It requires proper investment in high-quality political institutions and robust policy processes. Current and future generations deserve nothing less.

Table E.1: Options for enhancing parliamentary scrutiny of long-term governance

Possible changes to the Standing Orders and related parliamentary processes	
1	<p>Change the size and structure of select committees</p> <ul style="list-style-type: none"> • Reduce the average size of subject select committees to facilitate more rigorous scrutiny and enable the creation of at least one new committee. • Amend the current structure of select committees by: <ul style="list-style-type: none"> - establishing a new specialist committee with a mandate to examine long-term governance (e.g., a Committee for the Future) or - establishing a new specialist committee to examine all matters of governance, including long-term governance (e.g., a Governance Committee). • Encourage any new select committee with a particular responsibility for long-term governance to conduct joint inquiries, when appropriate, with the relevant subject select committee.
2	<p>Encourage scrutiny of long-term matters by select committees through changes to parliamentary rules</p> <ul style="list-style-type: none"> • <i>Subject area</i>: add a new subject area of 'long-term governance' to the list of subject areas for which an existing select committee is responsible (e.g., Governance and Administration). • <i>Specialist function</i>: create a new specialist function of 'long-term governance' (or 'governance') with specified responsibilities, and allocate this function either to an existing select committee (e.g., Governance and Administration) or a new specialist committee (e.g., Governance). • <i>Outcome reviews</i>: require subject select committees, when undertaking their annual reviews of public agencies, to examine the outcomes being achieved, including progress towards meeting long-term strategies, goals and targets. • <i>Departmental or sectoral stewardship reviews</i>: require subject select committees to undertake a stewardship review of a department or a particular sector each parliamentary term. • <i>System-wide stewardship reviews</i>: require the Governance and Administration Committee (or a Governance Committee) to undertake triennial reviews of the implementation and effectiveness of the stewardship provisions in the State Sector Act 1988 (or any subsequent legislation), including ways to enhance long-term stewardship and parliamentary scrutiny of such matters. • <i>Triennial inquiries into policy issues with major intergenerational implications</i>: provide greater encouragement and support to subject select committees to undertake at least one inquiry each parliamentary term of a policy issue with major implications for intergenerational wellbeing. • <i>Responding to reports from Officers of Parliament</i>: make changes to increase the extent to which select committees and the House of Representatives (the House) examine and respond to reports from Officers of Parliament in a timely manner. • <i>Examining progress in relation to major government strategies</i>: require select committees periodically to examine progress towards the achievement of major governmental strategies and long-term goals. • <i>Reviewing the long-term implications of legislation</i>: guide subject select committees, when examining bills, towards considering their long-term implications. This could include the development of a template to guide the initial briefing on a bill provided by departmental advisors, and the inclusion in such a template of a requirement, where relevant, for officials to brief committees on the expected long-term outcomes of the legislation. • <i>Terms of reference for inquiries</i>: encourage subject select committees to include long-term matters, where relevant, in their terms of reference for inquiries.

3	<p>Provide greater consideration of long-term matters by the House</p> <ul style="list-style-type: none"> • Amend SO 354 to require the <i>Prime Minister's statement</i> at the beginning of each year to include information about long-term matters (e.g., the Government's strategies for addressing major long-term challenges), and possibly require the statement to be referred to the Governance and Administration Committee (or a Governance Committee) for consideration. • Amend arrangements for oral questions in the House to provide for periodic sessions focusing on long-term matters. • Institute <i>special debates</i> on major issues, including those with significant long-term implications, and especially select committee reports on inquiries and briefings on long-term issues.
4	<p>Institute mechanisms to enhance legislative processes and encourage durable cross-party agreements on major long-term issues</p> <ul style="list-style-type: none"> • Encourage <i>pre-legislative consultation</i> with parties across the House (as well as with the public), to foster durable legislative solutions. • Explore with relevant central agencies whether <i>regulatory impact analysis</i> should give greater weight to long-term outcomes and risks of legislative proposals, where applicable. • Request the Government to adjust requirements for <i>disclosure statements for legislation</i> to include an indication of whether an analysis has been carried out of: (a) long-term issues and objectives that the legislation will address, and (b) the expected long-term outcomes of the legislation, and, if so, where that analysis is available.
5	<p>Change the way subject committees organise and conduct their activities</p> <ul style="list-style-type: none"> • Enhance the efficiency and effectiveness of the select committee system: <ul style="list-style-type: none"> - consider amending SO 201 to require that the chairpersons and deputy chairpersons of select committees are allocated across the parties in accordance with the principle of proportionality (i.e., based on the relative size of each parliamentary party), as for instance in the House of Commons in the United Kingdom - consider amending SO 201 to require specified select committees to be chaired by a member of an Opposition party (e.g., the Finance and Expenditure Committee and the Governance and Administration Committee) - improve the training and development opportunities of select committee chairpersons - seek ways to ensure that the workload of subject committees is more evenly balanced, both in terms of the relative workload of each committee and the flow of work across the parliamentary term - encourage select committees to undertake better forward planning of their work programmes at the beginning of each parliamentary term and on an annual basis, including provision for the conduct of inquiries - institute a formal review system to track progress in relation to select committee recommendations - encourage subject select committees to establish external reference groups of experts to advise them on major long-term policy issues in their sector - endorse the development by the Office of the Clerk (OOC) of best practice templates for the conduct of inquiries by select committees - institute briefings to select committees (e.g., by government departments and non-governmental organisations) at the beginning of each parliamentary term on the 'big issues' in their specific areas of responsibility.

- 5
- Alter the way select committees scrutinise the Estimates and conduct annual reviews:
 - increase the time allocated for hearings and questioning during the examination of the Estimates
 - free up time for more in-depth examination of the performance of departments and agencies by moving in many cases to a triennial system of reviews, and adjusting the allocation of time for scrutiny according to the relative importance and size of a department and/or agency and the level of fiscal and other risks
 - amend the Standing Orders to require statements of strategic intentions to be referred to select committees for examination, possibly as part of the annual review process
 - conduct annual reviews based on sectors, with possible sector-wide reports addressing progress towards outcomes
 - for Estimates and annual reviews, explore joint committee consideration of broad, cross-sector programmes
 - improve the range and quality of performance information provided to select committees, by departments, agencies and the Office of the Auditor-General (OAG), for instance via:
 - multi-year performance data to enable the analysis of important trends
 - standardised comparative data across agencies, where applicable
 - reports on progress towards meeting significant objectives
 - information on departmental and agency responses to concerns raised in previous years by the OAG and/or select committees
 - review questions sent to departments and agencies as part of the annual review process to ensure they include more questions about long-term issues, including strategies, plans, goals and targets, as well as progress towards achieving relevant outcomes
 - encourage ministers to make themselves available to appear before select committees during the annual review process to discuss progress towards long-term outcomes
 - require departments to report on their progress towards implementing the recommendations of select committees where these have been endorsed by the Government.

Other mechanisms to encourage members of Parliament (MPs) to engage with long-term issues

- 6
- Establish a Futures Forum Aotearoa (e.g., modelled on Scotland's Futures Forum):
 - such a forum would include MPs from across the House, representatives of major sector groups and leading researchers.
 - Establish a contestable fund to support the activities of cross-party parliamentary groups.
 - Provide a mechanism for cross-party parliamentary groups to generate reports and have them debated in the House.

Changes to improve advice for MPs and select committees

- 7
- Increase funding to enable greater use of independent experts to help subject committees with their review and oversight activities.
 - Provide additional research, analytical and advisory support for subject select committees via the Officers of Parliament (i.e., the Auditor-General and Parliamentary Commissioner for the Environment), the OOC, the Parliamentary Library and possibly the proposed independent fiscal institution.
 - Enhance the linkages between Parliament and the research community, both within New Zealand and more broadly, including the Royal Society of New Zealand Te Apārangi.
 - Appoint a Chief Parliamentary Science Advisor:
 - appointee could be a sole advisor or could lead a small Parliamentary Office of Science and Technology (POST) (e.g., similar to POST in the United Kingdom Parliament).

Policy, regulatory and institutional reforms

- | | |
|---|---|
| 8 | <ul style="list-style-type: none"> • Establish new institutions with specific mandates, among other things, to protect future-oriented interests (e.g., a Welsh-type Future Generations Commissioner). • Amend the Public Finance Act 1989 to enhance the quality of long-term reporting, including better reporting of progress towards achieving long-term strategies, goals and targets. • Strengthen the quality of foresight within the executive (e.g., via the establishment of a dedicated foresight unit within a central agency or across several agencies). • Require all proposals for legislative reform to include an assessment of their consistency with principles of intergenerational fairness and the principle of sustainable development. |
|---|---|

Constitutional reforms

- | | |
|---|---|
| 9 | <ul style="list-style-type: none"> • Enact a written entrenched constitution with the status of supreme law, with specific protections for future generations. • Amend the New Zealand Bill of Rights Act 1990 to enhance protections for future generations. • Extend the term of Parliament to four years, with a fixed or semi-fixed term. • Increase the number of MPs (e.g., from 120 to 150). |
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PART 1: INTRODUCTION



Chapter 1: The quest for better parliamentary scrutiny of long-term governance

You cannot escape the responsibility of tomorrow by evading it today.

Abraham Lincoln

Good governance is vital to protect the interests of current and future generations, and enhance intergenerational wellbeing. In parliamentary democracies, such as New Zealand, legislatures play a critical role in promoting and enabling good governance. They contribute in multiple ways by: representing diverse interests; scrutinising and authorising public expenditure and revenue; initiating, scrutinising and enacting legislation; and holding the executive branch of government (i.e., ministers and the public service) to account for its performance. Parliamentary scrutiny is fundamental for political accountability.¹ It is a vital mechanism through which such accountability occurs: it provides a crucial means for elected representatives to identify current and projected policy problems, poor decision-making processes, ineffective implementation and corrupt practices. Effective political accountability, in turn, is essential for building and maintaining public trust in the institutions of government and upholding the legitimacy of the democratic system. Robust accountability entails, among other things, the effective exercise of foresight, insight and oversight.

The focus of this report is on the scrutiny functions of the legislative branch of government, and more specifically on how the New Zealand House of Representatives (the House) scrutinises the quality of the nation's long-term governance and stewardship. The purpose, in short, is to review how our Parliament currently undertakes its oversight responsibilities, explore overseas approaches from which New Zealand might learn, and consider possible improvements.

Specific attention is given to the various ways in which the House's Standing Orders might be amended to strengthen scrutiny in relation to long-term governance. The focus on the Standing Orders reflects the forthcoming triennial review (expected during the latter part of 2019 and early 2020) by the Standing Orders Committee and the opportunity this affords to assess current rules, procedures and practices, and examine options for change. At the same time, it is recognised that the Standing Orders are only one element, albeit a fundamental one, in the overall system of governmental scrutiny and accountability. Hence, the report also considers a wider menu of reform options designed to enhance long-term governance and stewardship, including the parliamentary scrutiny of them. Among these options are various policy, regulatory, institutional and constitutional reforms.

This introductory chapter begins by clarifying key terms. It then outlines the rationale for this report, including the reasons for focusing on the House's *scrutiny* functions, and more specifically on the scrutiny of *long-term* governance and stewardship. Next, the chapter identifies some of the important themes and issues that subsequent chapters explore. It concludes by summarising the structure of the report.

Terminology – some clarifications

It is important to clarify the meaning of terms used extensively in this report: 'long term', 'governance', 'stewardship' and 'parliamentary scrutiny'.

Long term

With respect to periods of time, distinctions are often made between 'short term', 'medium term' and 'long term' or more simply between 'short term' and 'long term'. Yet it is readily apparent that such concepts

¹ For a short introduction to the concept of accountability, see R Mulgan (2000) 'Accountability: An ever-expanding concept?' *Public Administration* 78(3): 555–573

have no precise or widely agreed meaning. Moreover, the relevance of particular temporal divisions depends crucially on the context. In electoral politics, for instance, the long term is typically linked to matters or events that are expected after the next election. Such matters are considered 'long term'; anything earlier is viewed as 'short term'. In New Zealand, the parliamentary term is three years. Given the parliamentary focus of this report, the 'long term' will, for simplicity, be taken to mean timeframes of at least three years.

It is recognised, of course, that for many purposes three years constitutes a relatively short period of time; 'long term' often refers to periods exceeding (sometimes considerably) 10 years. Equally, many policy problems, as well as government interventions to mitigate them, cannot be delineated into discrete time periods. This is because the causes and/or effects of such problems traverse multiple time periods. Politically, therefore, they may be seen simultaneously as both a short-term and a long-term problem. Indeed, many problems that governments are expected to address are long-lasting; some may never be fully 'solved' – at best only alleviated. Examples include ill-health, substance abuse, domestic violence and natural disasters. Hence, they are neither short-term nor long-term problems. Their political salience and urgency, however, often wax and wane. Many other policy problems – and governmental responses – vary significantly in their impacts over time. For instance, so-called 'creeping problems' or 'slow-burner problems', unless addressed, tend to grow in scope and scale. They frequently remain 'out of sight and out of mind' until an important 'tipping point' is reached. Many environmental and health-related problems fall into this category.

Similarly, many policy decisions (and non-decisions) have extended impacts. For instance, delays in reducing global greenhouse gas emissions are likely to have consequences for centuries, if not millennia, because of the extremely long lags in the Earth's climate system. Many social policy interventions, or the lack of them, can also have protracted impacts. For instance, early invention programmes designed to improve the cognitive development of young children from deprived backgrounds have the potential to deliver much better outcomes over the life-course of recipients (i.e., 80 years or more). Such outcomes may include improvements in health, educational attainment, employment prospects and life-time earnings. In all likelihood, some of these benefits will spill over to other people, including the recipients' current family and whānau members, descendants, friends and other close associates.

While this report takes 'long term' to mean any time period of three years or more, there are obviously ethical reasons for being particularly concerned about policy problems – and any interventions to mitigate these problems – that are likely to have major intergenerational impacts. Other things being equal, the longer a harm continues, the worse its effects.

Governance

'Governance' is a rich and multifaceted concept, with many different, yet typically overlapping, definitions.² Derived from the Greek verb 'kubernáo', governance means 'to steer' – hence, Plato's metaphor in *The Republic* of steering 'the ship of state'.

Steering is relevant in many different contexts, including at multiple levels of government and within both the public and private sectors. This report is primarily concerned with *public* governance in a parliamentary democracy, notably New Zealand. Governance of this kind involves the lawful exercise of public power and authority by elected and non-elected officials to design and implement public policies. In terms of steering, it entails determining the overall direction of travel (i.e., a government's vision, goals and strategy), identifying trade-offs and setting priorities, and allocating resources to achieve the government's desired ends. Importantly, public governance means more than simply 'government'. That is, it is not limited to a defined set of governmental institutions or administrative arrangements.³ Nor

² See J Fukuyama (2013) What is governance? *Governance* 26(3): 347–368; J Pierre (2007) *Debating governance*. Oxford: Oxford University Press; R Rose (1980) *Challenge to governance: Studies in overloaded politics*. Beverly Hills: Sage Publications; R Shaw (2013) 'Meaning just what I choose it to mean – neither more nor less': The search for governance in Political Science. *Political Science* 65(2): 178–197.

³ See R Gregory (2014) Assessing 'good governance': 'Scientific' measurement and political discourse. *Policy Quarterly* 10(1): 15–25.

is it limited to a particular *mode* of decision-making. In short, governance has many different modes – participative, collaborative, network, hierarchical, multi-level, regulatory and so on.

If governance is fundamentally about steering and prioritising, then *long-term governance*, at least for the purposes of this report, is fundamentally about societal steering, navigating and prioritising beyond a single parliamentary term. As such, it is concerned with how governments:

- look forward, and plan and shape the future in desirable directions
- design and implement coherent policies to address major long-term challenges
- identify, minimise and manage significant risks, such as natural disasters
- protect critical resources and ecosystems for future generations
- prepare for unexpected eventualities, including economic shocks and other unpleasant surprises (e.g., ‘black swan’ events).

The question of what constitutes *good* public governance has received significant attention over recent decades. Many well-established lists of criteria are available. Most of these lists overlap. They commonly include such attributes as effectiveness, efficiency, responsiveness, transparency, accountability and the rule of law. Other attributes, such as equity, inclusion, participation and impartiality, are often included in the mix. In recent years, sustainability, stewardship, resilience and related concepts have figured more prominently. In terms of institutions, *good long-term* public governance requires all the conditions needed for good governance in general: robust, effective and accountable democratic institutions; a competent, efficient, non-partisan bureaucracy; an independent judiciary; reliable and comprehensive data; capable, diligent and trustworthy political leaders; low levels of corruption; a vibrant, informed civil society; and a vigorous, free, independent and responsible fourth estate. Additionally, *good long-term* public governance requires appropriate investment in the institutions and processes required for sound long-term planning (e.g., of public infrastructure and urban forms) and the effective exercise of foresight – or what can be termed ‘anticipatory governance’ (see chapter 3).

Stewardship

The term ‘stewardship’ refers to the care and protection of something of value, typically on behalf of others (e.g., owners of property). It is closely connected to notions of guardianship, trusteeship and fiduciary duties. In a governmental context, the task of stewardship is concerned with responsible planning and sustainable management of a nation’s resources (i.e., on behalf of current and future citizens). This includes many different kinds of resources. For instance, in accordance with the Treasury’s *Living Standards Framework* the four types of capital are: financial and physical; human; social; and natural. These capital stocks generate flows of goods and services. If they are damaged, degraded or destroyed, and if substitute stocks are unavailable, the flow of goods and services will be disrupted. Protecting and enhancing a nation’s capital stocks, especially those that are non-substitutable, is thus vital for the wellbeing of future generations.

The idea of stewardship transcends cultural boundaries. While the concept has been central to various Western philosophical and religious traditions (e.g., the Judeo-Christian tradition), it is equally important within Te Ao Māori (the Māori worldview). For instance, Te Ao Māori emphasises the need to safeguard the wellbeing of uri whakatipu (future generations) and to exercise kaitiakitanga, which is usually translated as guardianship or stewardship.⁴ Being a kaitiaki (or guardian) ‘means looking after one’s own blood and bones – literally’,⁵ for instance, through sustainable environmental practices. While traditionally Te Ao Māori applied the terms kaitiakitanga and kaitiaki primarily to the sustainable management of natural resources, in more recent times the terms have been extended to areas such as te reo Māori, education and health care.

⁴ This is not wholly correct, as stewardship often means looking after someone else’s property, whereas in Te Ao Māori, kaitiaki are looking after their own whānau and tūpuna. Indeed, the concept of ownership and property was a foreign concept in Te Ao Māori prior to European colonisation (see N Roberts, W Norman, N Minhinnick, D Wihongi & C Kirkwood (1995). Kaitiakitanga: Maori perspectives on conservation. *Pacific Conservation Biology* 2(1): 7–20, p 14).

⁵ Ibid, p 13.

For at least two reasons, this report places a particular emphasis on the scrutiny of governmental 'stewardship'. First, notions of stewardship and guardianship have been central to recent international debates over responses to the growing global ecological crisis, as highlighted by climate change, biodiversity loss and rising levels of toxic waste. Without sound environmental stewardship, the wellbeing of future generations will be imperilled. Governing well for the long term, therefore, must entail wise stewardship.

Second, in New Zealand the concept of stewardship has become increasingly important in recent years in the area of public management. In 2013, for instance, the State Sector Act 1988 was amended to incorporate the concept in several of its key sections. For the purposes of the Act, 'stewardship' is defined in section 2 as "the active planning and management of medium- and long-term interests, along with associated advice". Under the Act it embraces financial stewardship, regulatory stewardship, the stewardship of human resources and the maintenance of overall organisational health. If Parliament is to scrutinise the performance of the executive, assessing departmental stewardship in its various forms must be a core feature of such oversight. These matters are discussed further in chapter 3.

For the purposes of this report, 'stewardship' will be interpreted both in its general or broad sense (i.e., as guardianship or trusteeship) and as defined in the State Sector Act (i.e., as "active planning and management of medium- and long-term interests, along with associated advice"). Where relevant, the specific context in which the word is being applied will be clarified.

Parliamentary scrutiny

The conduct of 'parliamentary scrutiny' refers to the legislature's investigation, examination and analysis of the decisions, policies, actions and spending by the executive branch of government. This includes all parts of the executive branch – ministers, departments, Crown entities and other relevant public bodies. It also covers every field of public policy and public life, whether international or domestic, and all the tools of governance – funding, direct provision, regulation, negotiation and persuasion. Parliamentary scrutiny includes examining government bills in the House and in select committees, as well as the performance of the government in implementing its policies. As chapter 5 explains, there are various forms and layers of parliamentary scrutiny (e.g., political, institutional and formal). If well designed and adequately resourced, each layer will contribute to, and reinforce, the overall quality of legislative oversight.

From a temporal perspective, scrutiny can be either backward-looking (retrospective) – that is, exploring the government's recent and past performance – or forward-looking (prospective) – that is, assessing how well the government is preparing for the future, exercising foresight and managing risk. Of course, the two types of scrutiny are closely connected, with multiple interdependencies. Recent investments in public infrastructure, for instance, will have a significant bearing on expected future performance. Hence, robust backward-looking scrutiny in such a context will be interested in whether the recently chosen infrastructure projects are cost-effective and fit for purpose, not just in the near future but also over the longer term. Will they adequately meet expected future demand? Have they taken proper account of changing technologies or significant environmental changes, such as sea level rise?

As the clarification of terms above indicates, this report gives particular attention to the quality of the House's forward-looking scrutiny of matters with potentially significant long-term implications. For instance, how actively, systematically and robustly is the House examining the matters of:

1. *foresight*: the extent to which governments and public agencies scan the horizon for looming problems, monitor creeping problems and evaluate the implications of long-term trends
2. *risk management*: the extent to which governments and public agencies identify, assess and seek to reduce long-term risks and vulnerabilities, and the way they apply the precautionary principle
3. *resilience*: the extent to which governments are ensuring that our institutions, policies and regulatory framework are resilient to various kinds of shocks and have adequate adaptive capacity
4. *research and evidence*: the extent to which governments invest adequately in research that investigates and seeks to address major long-term challenges, and whether policy-makers make the best use of the available evidence

5. *technology assessment*: the extent to which governments assess the economic, social and environmental impacts of major new technologies
6. *responsible fiscal management*: the extent to which governments follow widely accepted principles of responsible fiscal management (as embodied in, for instance, the Public Finance Act 1989)
7. *sustainable environmental management*: the extent to which governments ensure that economic development is consistent with safe biophysical limits and the protection of important ecological values
8. *planning*: the quality and effectiveness of governmental planning at multiple levels (e.g., national and subnational) and in areas of major public investment (e.g., transport infrastructure, education, health care and housing)
9. *intergenerational wellbeing and fairness*: the extent to which governments consider the needs and interests of future generations in policy-making, including issues of intergenerational fairness
10. *international obligations*: whether governments are meeting their international obligations, especially with respect to long-term goals and targets.

Chapter 3 discusses these matters further.

The rationale for this report

As noted, the focus of this report is on the parliamentary scrutiny of long-term governance and stewardship. Among the many reasons for giving this topic particular attention at this time, six are outlined below, in no order of importance.

First, globally, humanity faces immense challenges, many with major intergenerational ramifications. Technological change is accelerating. The fourth industrial revolution – including artificial intelligence, autonomous vehicles, robots, 3D printing, and digitisation – is well under way, and is likely to have profound social, economic and environmental implications. Aside from the impact of various technological innovations, numerous other global challenges are evident, some with significant implications for the wellbeing of future generations. Many of these are environmental: climate change; species extinction; soil degradation and loss; declining freshwater quality and availability; the acidification of the oceans; increasing concentrations of toxic wastes; and the poor management of forests, fisheries and other renewable resources. Added to these ecological issues are many other global problems: fragile and failed states; civil wars; geopolitical tensions; large-scale migration flows; religious conflicts; cyber-attacks; increasing anti-microbial resistance; growing populist movements; and declining trust in the political system. Good long-term global governance, especially of global public goods such as the atmosphere and the oceans, will be essential to properly protect the interests of future generations. As part of the international community, New Zealand has a moral duty to contribute to sound global governance and efforts to address major global problems. The House, in turn, has a role in ensuring that this country's contributions are effective, efficient and equitable. Robust scrutiny is an essential part of this process.

Second, New Zealand is a signatory to, or has ratified, numerous international agreements. Many of these have significant and enduring implications for domestic policy. They are thus core components of sound long-term governance. Examples include the Universal Declaration of Human Rights (1948), the International Covenant on Civil and Political Rights (1966), International Covenant on Economic, Social and Cultural Rights (1966), the United Nations Convention on the Law of the Sea (1982), the Convention on the Rights of the Child (1989), United Nations Framework Convention on Climate Change (1992), the Convention on Biological Diversity (1992), the Convention on the Rights of Persons with Disabilities (2006), the Declaration on the Rights of Indigenous Peoples (2007), the Paris Agreement on Climate Change (2015), the Sustainable Development Goals (2015) and the Sendai Framework for Disaster Risk Reduction (2015). Effective domestic implementation of these international agreements is important. In some cases (e.g., the Sustainable Development Goals), governments are obliged to meet specific targets and monitor their performance using a wide range of measurable and meaningful indicators. Again, the House has a vital role in ensuring that governments are held to account for achieving their goals and meeting their international obligations.

Third, aside from New Zealand's contribution to addressing various global problems, many of which are inherently long term in nature, numerous local problems require government attention. Many of these will require policy interventions over extended timeframes. Examples include measures to address poor or deteriorating freshwater quality, the lack of affordable housing, a high rate of obesity and related health issues, ageing public infrastructure and a rising sea level. In some instances, our current problems reflect poor decision-making by successive governments. To what extent inadequate parliamentary scrutiny has contributed to these failings is debatable. The existence of such problems, however, highlights the importance of robust legislative oversight. Better scrutiny will enhance the incentives for better governance, including efforts to ameliorate major long-term policy problems and protect the interests of future generations.

Fourth, the focus of this report on the scrutiny of long-term governance and stewardship reflects the tendency for governments, whether democratic or otherwise, to focus on the challenges of today rather than those of tomorrow, and to favour short-term over long-term interests. This propensity is variously referred to as 'short-termism', 'political myopia' and a 'presentist bias'. Chapter 3 discusses the reasons for, and implications of, this bias. In the meantime, it is simply observed that the problem of short-termism is well recognised by democratic policy-makers and that many governments around the world have taken active measures to counter it. A common approach has been to introduce various kinds of 'commitment devices'⁶ to enhance the political incentives to protect long-term interests. Such devices include establishing public institutions with specific future-focused mandates, improving the quality of information and evidence for policy-making, enhancing governmental transparency, and improving foresight and the assessment of risk. Strengthening the mechanisms of political accountability, for instance through better parliamentary scrutiny, is on the menu of options for ameliorating the problem of short-termism.

Fifth, the decision to focus on parliamentary scrutiny reflects long-standing concerns of many parliamentarians and observers of New Zealand's political system that our current arrangements for political accountability are far from perfect. On the one hand, parliamentary scrutiny of government bills has long been considered to be relatively good, especially when compared with the processes followed in a number of comparable legislatures. On the other hand, assessments of parliamentary scrutiny of government performance have generally been less favourable. In short, the political incentives for robust scrutiny are often weak, and the scrutiny that does occur tends to be backward-looking, ad hoc and reactive.

Unsurprisingly, perhaps, concerns of this nature were strongly reinforced by those interviewed in preparing this report. Many members of Parliament (MPs), former MPs, government officials and other interviewees described the present system of parliamentary scrutiny, especially in relation to governmental performance, as "broken", "poor", "weak", "inadequate", "cursory" and "patchy". Equally, the general agreement was that the House currently undertakes relatively little scrutiny of major long-term policy problems or the quality of anticipatory governance (or anticipatory competence). For instance, select committees undertake few inquiries with significant intergenerational dimensions or that focus on the long-term implications of major economic, societal, technological or environmental trends. Almost no independent foresight activity is undertaken by select committees.

⁶ The concept of a 'commitment device' refers to a mechanism that is designed to change the structure of intertemporal pay-offs and/or limit future discretion by binding a person, organisation or government to a particular course of action. Commitment devices can take many different forms, from marriage vows to multi-party agreements. In the policy realm, they can include constitutional or quasi-constitutional mechanisms, procedural and substantive devices, and mechanisms that are designed to insulate decisions from short-term political influence (e.g., transferring decision-rights to an independent group of experts) (see J Boston (2017) *Governing for the future: Designing democratic institutions for a better tomorrow*. West Yorkshire: Emerald Publishing Limited; R Reeves (2015) *Ulysses goes to Washington: Political myopia and policy commitment devices*. <https://www.brookings.edu/wp-content/uploads/2016/06/Ulysses.pdf>).

Many constitutional, institutional, analytical and cultural reasons appear to account for the unsatisfactory nature of such scrutiny. While the following chapters explore them in more detail, these reasons include:

- the relatively small size of our House of Representatives by international standards, which limits the time and availability for MPs to undertake scrutiny activities, and increases the dominance of the executive and the strength of caucus discipline
- the relative frequency of general elections and the impact of this on the turnover and consequently the experience of MPs
- the priority that subject select committees give to reviewing government bills
- the design of the select committee system, including the absence of specialist committees focused on the conduct of in-depth inquiries
- the limited analytical and advisory resources available to assist MPs and select committees.

While the broad consensus among parliamentarians and other informed observers is that improvement is needed, there is less agreement on the best way forward. This report canvasses various options for reform in the hope of encouraging debate and stimulating new thinking.

Sixth, and finally, the current Government has embarked on a variety of reforms designed to enhance the quality of governance, including long-term governance and stewardship. Some of these reforms will have implications for the conduct of parliamentary scrutiny, for instance by increasing the availability of information and evidence for assessing governmental performance. While chapter 4 discusses their nature in more detail, these reforms include:

- changing the system of public sector management, including the mechanisms for performance management, financial management and public accountability (i.e., specifying, monitoring, reporting and evaluating)
- setting long-term targets to address major issues, such as climate change and child poverty
- developing a wellbeing framework to guide policy-making and report progress, implementing a wellbeing budget, and developing a child and youth wellbeing strategy.

Aside from this, the Office of the Auditor-General is currently reviewing the system of public accountability and the services it provides to Parliament. These and related initiatives mean that it is timely to consider how parliamentary scrutiny of long-term governance and stewardship might be enhanced.

Assessing long-term governance and stewardship

Governing well for the long term is far from easy. For one thing, significant epistemic challenges are involved. Governments face deep uncertainty, policy complexity, and multiple intragenerational and intergenerational trade-offs. In such circumstances it is often hard to ascertain the best course of action. For another, governments often have formidable political challenges. Even when the available evidence points strongly in favour of a particular policy option, the political risks may be deemed too great. Alternatively, powerful vested interests may thwart the preferred option. Just as governing well for the long term is problematic, so is the task of assessing the quality of such governance. Nevertheless, various criteria can be suggested, as discussed in chapter 3.

The structure of this report

This report is organised as follows. Chapter 2 outlines the methodology adopted. Chapter 3 explores in more detail the challenge of long-term governance and stewardship, and considers how its quality and effectiveness might be assessed. Chapter 4 outlines various current reform initiatives that are likely to have a bearing on parliamentary scrutiny of governmental performance. Chapter 5 examines the current system of parliamentary scrutiny, highlighting the different layers of scrutiny and the way these layers operate. Chapter 6 considers how various other parliamentary democracies have sought in recent decades to enhance the quality of their long-term governance and improve parliamentary scrutiny. Chapter 7 summarises interviewees' perspectives on the current system of parliamentary scrutiny in New Zealand and outlines the options to strengthen existing arrangements. It also highlights various considerations that policy-makers should take into account in pursuing an agenda for reform. Chapter 8 outlines options for amending the Standing Orders in the interests of more forward-looking, systematic and proactive parliamentary scrutiny, with particular regard to the scrutiny of long-term matters. Chapter 9 explores ways to improve the quality of advice and analysis available to select committees. Chapter 10 examines possible policy and constitutional reforms designed to enhance the quality of long-term governance and parliamentary scrutiny. Chapter 11 offers some brief conclusions. Additional matters of relevance to the report, including a list of those interviewed, are contained in the appendices.

Conclusion

To sum up, parliamentary scrutiny plays a vital role in New Zealand's political system. It increases the incentives for good governance. It contributes to better legislation. It provides a means for holding governments – including ministers and public agencies – to account for their performance. Further, it contributes to greater public trust in our system of government. But evidence indicates that our current framework for, and conduct of, parliamentary scrutiny are unsatisfactory. This applies particularly to the scrutiny of long-term governance and stewardship. Given the serious global and local threats to the wellbeing of future generations, it is important to consider how parliamentary scrutiny of long-term matters might be improved. The quest, in other words, is for more forward-looking, systematic and proactive legislative oversight. The purpose of this report is to help advance that quest.

Chapter 2: Research methods

Introduction

As chapter 1 has established, this report is about identifying ways to enhance parliamentary scrutiny of the quality of long-term governance and stewardship in New Zealand. The particular focus is on how the House's Standing Orders might be amended to strengthen legislative oversight, especially of long-term matters. In addition, this report considers wider policy, institutional and constitutional reforms on the assumption that better scrutiny will sharpen the political incentives for good governance and in that way will improve intergenerational wellbeing.

This chapter briefly outlines the methodology adopted in the preparation of this report. It provides information on the project team, research questions, data gathering, analysis and peer review. The project commenced in May 2018. A large number of people, both in New Zealand and overseas, contributed. Without their assistance, this report would not have been possible.

Project team

The project involved a collaboration between the Institute for Governance and Policy Studies (IGPS) within the School of Government at Victoria University of Wellington and the Office of the Clerk of the House of Representatives (OOC). Both the IGPS and OOC contributed resources to the exercise. Professor Jonathan Boston (School of Government) led the project team. Contributors included: David Bagnall, Tui Head, Gabor Hellyer and Pavan Sharma (OOC); Alex MacBean and Pleasance Purser (Parliamentary Library); and Anna Barry (IGPS, research assistant). Senior staff in the OOC and IGPS provided oversight.

Research questions

The project team identified the primary research question as: 'How can the New Zealand Parliament enhance its scrutiny of the quality of the government's long-term governance and fulfilment of its stewardship responsibilities?' The following secondary research questions were also identified.

1. What are the challenges to effective long-term governance, and its scrutiny by Parliament?
 - a. What are the current institutions in place regarding long-term governance and its scrutiny by Parliament, such as:
 - i. the statutory framework for long-term governance and stewardship
 - ii. long-term governance and policy development processes
 - iii. reporting to Parliament
 - iv. scrutiny by the House?
 - b. What are the strengths and weaknesses of the above institutions?
2. What are some relevant overseas models for parliamentary scrutiny that New Zealand can learn from?
 - a. What are the strengths and weaknesses of these models?
 - b. To what extent are they comparable and thus informing for New Zealand?
3. What are the broad options for procedural development or reform?
4. What are some potential changes to the Standing Orders that could enhance parliamentary scrutiny of the executive's long-term governance? What are the strengths and weaknesses of these proposals?

Appendix 1 outlines the project brief.

Data gathering, analysis and review

The project adopted a largely qualitative research approach. This included:

1. a literature review
2. semi-structured interviews, both in New Zealand and overseas
3. a series of meetings with government officials and other stakeholders
4. several exploratory case studies
5. a survey of legislatures in Commonwealth jurisdictions
6. feedback on initial findings and proposals from members of Parliament (MPs), former MPs, government officials, parliamentary staff, researchers and others.

The research methods adopted reflected the nature of the research questions and the resource constraints of the project. Qualitative methods were favoured over quantitative approaches, not least because of the varied nature of the issues being explored, the small size of New Zealand's House of Representatives, the range of jurisdictions being considered and the likely limited value of quantitative information. For instance, one method considered was to undertake a quantitative analysis of oral and written questions and debates in the House during a specified period in order to ascertain how often issues of a 'long-term nature' are discussed. However, it was concluded that this method was not feasible for various reasons and that the results were unlikely to be particularly meaningful.

In general, the approach to information gathering during the project was exploratory and iterative. Note too that the OOC staff who contributed to the project are all participant observers of the parliamentary process in New Zealand. Collectively, they have a wealth of experience of, and insight into, the nature and conduct of parliamentary scrutiny and how this has changed over the years (e.g., in response to electoral reform).

Literature review

During the project, the team reviewed a substantial body of literature. This included academic research, together with the reports of various international organisations, policy think tanks and government organisations. Particular attention was given to research published by leading think tanks that focus on parliamentary issues, such as the Constitution Unit at University College London and the Institute for Government in London. Literature on a wide range of topics of potential relevance to the project was investigated, including issues relating to: political accountability, parliamentary scrutiny and oversight, advisory systems, governance, stewardship, sustainability, protecting future generations, intergenerational wellbeing, intergenerational fairness, foresight, risk management and technology assessment.

In terms of overseas legislatures, the literature review concentrated on parliamentary systems that are broadly comparable with New Zealand. Among these are national parliaments in smaller democracies such as Finland and Ireland, and subnational legislatures in Scotland and Wales. Several of the specific literature reviews conducted by staff in the Parliamentary Library are included in appendices 3, 4 and 5. Note too that the project drew extensively on previous research conducted by Professor Boston in various countries during 2014 on matters relating to foresight and long-term governance.¹

In addition to using search engines such as Google and Google Scholar, and carefully exploring relevant governmental and parliamentary websites, a concerted effort focused on the main academic journals to identify potentially relevant articles on the role and operations of legislatures. The journals examined included the *Journal of Legislative Studies*, *Legislative Studies Quarterly* and *Parliamentary Affairs*, along with major journals in political science and government studies, such as *Governance*. In the event, only

¹ See J Boston (2017) *Governing for the future: Designing democratic institutions for a better tomorrow*. West Yorkshire: Emerald Publishing Limited; J Boston (2017) *Safeguarding the future: Governing in an uncertain world*. Wellington: Bridget Williams Books; J Boston (2017) Anticipatory governance: How well is New Zealand safeguarding the future? *Policy Quarterly* 12(3): 11–24. See also J Boston, J Wanna, V Lipski & J Pritchard (eds) (2014) *Future-proofing the state: Managing risks, responding to crises and building resilience*. Canberra: ANU Press.

a modest body of material of direct relevance to the project was found in such journals. Accordingly, leading overseas researchers who specialise in the study of parliaments were contacted for their advice, which generated some additional lines of inquiry. Yet, despite this effort, the international literature on parliamentary scrutiny of matters relating to long-term governance and stewardship is remarkably thin. To be sure, the literature on legislative oversight and different types of scrutiny, especially scrutiny of the public accounts, is extensive. But little of this addresses matters of direct relevance to this project, such as forward-looking scrutiny, governmental planning, risk management, intertemporal trade-offs, intergenerational fairness, foresight or anticipatory governance.

Interviews and meetings

Close to 60 interviews were conducted, both in New Zealand and overseas, with MPs, former MPs, government officials, staff within offices of parliaments, academics and think tank researchers. Advice on who to interview was sought from a range of people. Most of the interviews were carried out face to face and followed a semi-structured format. The degree of formality and depth of questioning varied. The lines of inquiry for each interview depended on the role and background of the interviewees, the jurisdiction in question, and the stage in the project when the interview was conducted. In some cases, questions relating to parliamentary scrutiny and long-term governance formed only a minor part of the overall discussion. As a general rule, however, the aim was to secure insights into the strengths and weaknesses of current parliamentary practice in relation to scrutiny, especially scrutiny of long-term matters, possible lessons from overseas legislative procedures and practices for New Zealand, the options for amending the Standing Orders in the interests of better scrutiny of long-term governance, the wider options for policy, institutional and constitutional reform to improve long-term governance, and possible strategies for securing reform.

Interviews ranged in length from around 20 minutes to several hours. In many cases, two or more people were part of the same interview, and in several instances up to 10 people were present. The interviews were all conducted on a confidential basis with interviewees being guaranteed anonymity. Notes were taken at each meeting, but no electronic recordings were made. In total, over 100 people were interviewed or attended project-related meetings.

Altogether, 14 current MPs in New Zealand were interviewed: five Labour, five National, two New Zealand First and two Green MPs. Six former MPs from a range of parties were interviewed, including former ministers and backbenchers. An effort was made to secure the views of a representative sample of MPs at different stages of their parliamentary careers, from different ethnic and professional backgrounds, and with experience on a range of select committees.

On a trip to the United Kingdom during December 2018 and early January 2019, Professor Boston also took the opportunity to conduct interviews with people in London and Cardiff with expertise in relation to parliamentary scrutiny. This included meetings with the Future Generations Commissioner for Wales, Sophie Howe, and many of her staff.

Additionally, a two-hour roundtable discussion was arranged early in the project on 22 June 2018 at Victoria University of Wellington under the auspices of the IGPS. Approximately 20 public officials and academic experts attended. The roundtable canvassed the aims of the project, identified potentially useful lines of inquiry and considered options for reform.

Appendix 2 gives a full list of all interviews and meetings.

Case studies

Three case studies were conducted as part of the research for this project. Chapter 5 reports the results. The aim was to investigate whether, to what extent and in what ways the House undertakes scrutiny of long-term matters, and how it seeks to hold the executive to account for the quality of its long-term governance.

The first case study examined the impact of the introduction of a new Standing Order in 2008 (SO 396) to ensure that select committees consider reports of Officers of Parliament. The relevant Standing Order did not prescribe how or when committees should respond to such reports, whether their responses should be substantive or pro forma, or whether they should include recommendations. Many reports by Officers of Parliament were reviewed for indications of whether, for instance, Officers explored issues of long-term governance in their reports, and whether select committees considered aspects of long-term governance when examining these reports.

The second case study explored an important long-term issue, namely the development and implementation of New Zealand's Biodiversity Strategy 2000–20. The Strategy, announced in February 2000, reflected the country's commitment as a signatory to the United Nations Convention on Biological Diversity, a multilateral treaty that entered into force in December 1993. The Strategy established a framework for action designed to halt the decline in the nation's indigenous biodiversity. The case study examined how the House has scrutinised the implementation of the Strategy and the extent to which it has held respective governments to account for their performance in relation to biodiversity issues.

The third case study investigated whether and to what extent select committee inquiries in recent years have included substantive consideration of long-term issues, including issues of long-term governance. Some 30 inquiries conducted between late 2011 and late 2018 were examined.

Survey of legislatures in Commonwealth jurisdictions

The project team developed a written survey with the aim of exploring the way in which overseas legislatures scrutinise long-term governance in their respective jurisdictions (see appendix 7). The OOC sent the survey to the Commonwealth Parliamentary Association for distribution to its member parliaments in the Commonwealth. The survey contained eight questions relating to government reporting requirements to Parliament, parliamentary scrutiny of government reports, and independent parliamentary scrutiny mechanisms (e.g., inquiries). Most of the questions required a simple yes/no answer, with a prompt to provide a brief explanation if the answer was 'yes'. Chapter 6 summarises the results of the survey, while appendix 8 gives a more detailed analysis. Again, as with the literature review, the survey generated only a modest amount of useful information.

Feedback and peer review

Draft material generated by the project team was distributed on a confidential basis to a wide range of people for comment, including former MPs, former senior officials, current officials, and other people with relevant expertise in relation to parliamentary scrutiny, during the early part of 2019. The extensive feedback received was reviewed by members of the project team and contributed to significant changes to the content of this report. Once a full revised draft was completed (by late April 2019), it was circulated to selected experts for peer review. The peer review comments were reviewed by the project team and the report was amended to reflect the feedback.

Evaluation of method

While the research for this project was relatively comprehensive, in the time available it was not possible to explore every fruitful line of inquiry. Hence, in relation to parliamentary scrutiny in other jurisdictions, only a small selection of overseas countries was surveyed in any depth. It is quite possible, therefore, that our research has failed to identify important scrutiny practices in overseas legislatures that could be very useful and effective in New Zealand, if adopted. Equally, the time available was insufficient to explore the full range of advisory arrangements in overseas legislatures that contribute to parliamentary oversight of long-term matters. In particular, the role of supreme audit institutions was not investigated in much depth. Further, although 14 current and six former MPs were interviewed, this represents only a modest proportion of the total who have been or continue to be MPs.

One other issue deserves mention: namely the rapidly evolving policy context in which the project was conducted. During 2018–19, many areas of government policy of direct relevance to the project were under review. As chapter 4 discusses, this included possible reforms to the State Sector Act 1988 and the Public Finance Act 1989, the establishment of an independent fiscal institution, and the development of a new wellbeing framework to guide budgetary priorities and decision-making. Additionally, the Office of the Auditor-General was reviewing the framework of public accountability in New Zealand, as well as assessing its provision of services to Parliament. Meanwhile, the Royal Society of New Zealand and the Prime Minister’s Chief Science Advisor have been exploring ways to enhance the provision of scientific advice to policy-makers, including MPs.² All these processes have implications for the nature and quality of parliamentary scrutiny, including scrutiny of long-term governance and stewardship. Hence, it became evident during interviews and meetings that it would be difficult to finalise a menu of reform options in relation to the Standing Orders without clarifying the wider policy landscape. For this reason, some of the ideas canvassed in this report are necessarily tentative.

² See B Jeffares, J Boston, J Gerrard, S Hendy & W Lerner (2019) Science advice in New Zealand: Opportunities for development. *Policy Quarterly* 15(2): 62–71.

PART 2: ANALYSIS



Chapter 3: Assessing long-term governance and stewardship

Introduction

As discussed in chapter 1, this report looks at how to enhance parliamentary scrutiny in relation to the quality of long-term governance and stewardship in New Zealand. Such scrutiny is important for many reasons. One is to provide strong incentives for good governance. Another is to identify opportunities for improvement. Given the multiple and serious long-term risks facing humanity, efforts to enhance the quality of long-term governance are vital globally, nationally and subnationally. Chapter 1 highlights that New Zealand policy-makers must confront major long-term global challenges, such as mitigating and adapting to climate change, protecting biodiversity and managing the impact of disruptive technologies, while simultaneously addressing numerous long-term local challenges, such as low productivity growth, serious ethnic inequalities, inadequate investment in public infrastructure, mitigating and managing natural hazards, and the fiscal implications of demographic change.

Safeguarding long-term interests, however, is not easy. There are strong political incentives in democratic systems for policy-makers to prioritise short-term interests over those of future generations. Powerful vested interests often hinder prudent economic or environmental stewardship. Governments must also grapple with deep uncertainty, policy complexity and multiple intra-generational and intergenerational trade-offs. Given such challenges, determining how best to govern for the future is not straightforward; nor is assessing the quality of such governance.

With these considerations in mind, this chapter addresses four issues relevant to parliamentary scrutiny of long-term governance and stewardship. First, it explores the moral and legal reasons why governments should seek to govern well for the future. Second, it outlines the factors that complicate the task of good governance, giving particular attention to the presentist bias in policy-making and the reasons for this bias. Third, it considers how Parliament might assess the quality of long-term governance. The concept of 'anticipatory governance' is outlined and possible assessment criteria are proposed. Fourth, the chapter briefly assesses New Zealand's current policy and regulatory framework for long-term governance, noting especially the 'commitment devices' that have been instituted over recent decades to encourage good governance.

Ethical and legal basis for safeguarding future interests

It is widely accepted that societies have a duty to protect the interests and wellbeing of both current and future generations.¹ This duty rests on several moral imperatives that are now more or less universally endorsed by the world's major philosophical, religious and cultural traditions (although historically this has not always been the case). One of these is the fundamental ethical proposition that all human beings have equal and intrinsic worth, regardless of their personal attributes or their spatial or temporal location. In other words, a person's specific characteristics, birthplace, and the century into which they are born do not affect their inherent value. For policy purposes, this means all people, whether living now or in the far future, should be valued equally. This, in turn, has significant implications for notions of intergenerational justice and the application of discounting in policy analysis.

Another widely shared moral norm is the obligation to care for the Earth and all its diverse species and ecosystems – or what Pope Francis has called 'our common home'. This duty is often grounded in the proposition that human beings serve as temporary trustees or stewards of the Earth rather than owning it. As such, humanity has a fiduciary responsibility to care for, and treasure, all forms of life and exercise prudent management of Earth's biophysical resources.

¹ J Boston (2017) *Governing for the future: Designing democratic institutions for a better tomorrow*. West Yorkshire: Emerald Publishing Limited; I González-Ricoy & A Gosseries (eds) (2016) *Institutions for future generations*. Oxford: Oxford University Press; A Gosseries & L Meyer (eds) (2009) *Intergenerational justice*. Oxford: Oxford University Press.

Since World War II, moral obligations of this nature have been embodied in numerous international treaties and other agreements. Some are legally binding, others are primarily political declarations. For instance, the United Nations Framework Convention on Climate Change ((UNFCCC) (1992), on which the Paris Agreement (2015) is based, states that all Parties to the Convention are “determined to protect the climate system for present and future generations”.² The United Nations (UN) Educational Scientific and Cultural Organization’s Declaration on the Responsibilities of the Present Generations Towards Future Generations in 1997 is an example of a ‘soft law’.³ It constitutes the UN’s most explicit embodiment of humanity’s responsibility for safeguarding the interests of future generations. Its ‘declaration’ status signifies a strong expectation that Member States will abide by it.⁴ In 2015, all UN Member States adopted the 2030 Agenda for Sustainable Development and its corresponding 17 Sustainable Development Goals (SDGs). Countries are expected to work towards achieving the targets pertaining to each SDG, develop relevant national indicators for each target, monitor progress and report to the UN periodically.

New Zealand’s legal system draws heavily on the ethical norms noted earlier. Similarly, when New Zealand is a party to an international treaty, it is obliged to comply with the relevant treaty provisions and give effect to them, when necessary, in domestic legislation.⁵ Hence, the obligations in treaties with intergenerational dimensions must be upheld in New Zealand. For instance, in the case of the UN Convention on the Rights of the Child, various provisions have been incorporated into domestic law through the Children’s Commissioner Act 2003, the Oranga Tamariki Act 1989 and the Child Poverty Reduction Act 2018. The extent to which New Zealand upholds and incorporates ‘soft’ international law depends on the strength of the social norms relating to such international resolutions.

Policy and legal frameworks in New Zealand have also been influenced over the years by Te Ao Māori (the Maori worldview), which among other things, upholds the importance of safeguarding the wellbeing of uri whakatipu (future generations). As noted in chapter 1, kaitiakitanga is a central concept in this context. Usually translated as guardianship or stewardship, kaitiakitanga derives from the idea that Māori whakapapa go back not only to human ancestors but also to the gods, such as Ranginui, Papatūānuku and their offspring. A person’s whānau and tūpuna (ancestors), therefore, include plants, trees, rocks and animals, because all are descended from Papatūānuku.⁶ Being a kaitiaki (guardian) “means looking after one’s own blood and bones – literally”,⁷ through conservation of the land and sustainable environmental practices. This guardianship of resources ensures their viability for future generations, who are also related through whakapapa. The literature on Te Ao Māori overwhelmingly places kaitiakitanga in the realm of sustainable management of natural resources. Nevertheless, contemporary use of the terms ‘kaitiakitanga’ and ‘kaitiaki’ extends to areas such as te reo Māori, education and the health sector.

As part of its obligations under Article II of the Treaty of Waitangi (the Treaty), the Crown must enable Māori to exercise tino rangatiratanga (sovereignty) over their lands and taonga katoa (all treasured things). Kaitiakitanga by Māori must therefore be respected. The Crown also has a fiduciary duty to actively protect Māori interests and work towards equality between Māori and non-Māori. The current inequalities experienced by Māori in areas such as health status, income levels and educational attainment must be addressed, and the underlying institutional causes of such disparities necessitate a longer-term strategy.

² United Nations (1992) *United Nations Framework Convention on Climate Change*, p 8. <https://unfccc.int/resource/docs/convkp/conveng.pdf>

³ For more information on ‘soft laws’ see D Thürer (2009) *Soft law*. <http://opil.ouplaw.com/view/10.1093/law:epil/9780199231690/law-9780199231690-e1469?print=pdf>. See also UNESCO (1997) Declaration on the responsibilities of the present generations towards future generations. http://portal.unesco.org/en/ev.php-URL_ID=13178&URL_DO=DO_TOPIC&URL_SECTION=201.html

⁴ UNESCO (nd) *General introduction to the standard-setting instruments of UNESCO*. http://portal.unesco.org/en/ev.php-URL_ID=23772&URL_DO=DO_TOPIC&URL_SECTION=201.html#name=3

⁵ Law Commission (1996) *A New Zealand guide to international law and its sources*, p 2. <https://www.lawcom.govt.nz/sites/default/files/projectAvailableFormats/NZLC%20R34.pdf>

⁶ M Roberts, W Norman, N Minhinnick, D Wihongi & C Kirkwood (1995) Kaitiakitanga: Maori perspectives on conservation. *Pacific Conservation Biology* 2(1): 7–20.

⁷ *Ibid*, p 13.

Challenge of protecting long-term interests in a democracy

Effective long-term governance requires, among other things, a commitment to sustainable policies and practices. Sustainability is relevant to multiple policy domains and numerous societal outcomes: economic, social, cultural and environmental. It is a core consideration guiding the management and protection of capital stocks, whether financial, manufactured, human, social or natural. To ensure sustainability, governments need to understand the long-term challenges and risks they face, ascertain how best to respond, and implement the required policies. Determining these matters depends on factors such as access to reliable information and evidence, the exercise of foresight, robust risk analysis, long-term planning (e.g., of public infrastructure and urban forms) and the capacity to intervene effectively to mitigate risks and seize opportunities.

Having the necessary *capacity* to act is one thing, being *willing* to do so is another. Many government interventions required to prevent long-term harm and protect future interests impose short-term economic or social costs. In other words, a temporal separation often occurs between the flow of costs and benefits: the costs are frequently front-loaded while the benefits are back-loaded. In such circumstances, a *non-simultaneous exchange* is required. Politically, these intertemporal trade-offs are often challenging. For governments, the political risk of imposing short-term costs will depend on factors such as the degree of certainty surrounding the expected costs and benefits, the precise nature of the costs and benefits (e.g., tangible versus intangible), the length of time before the benefits are realised, and the extent to which the respective costs and benefits are concentrated (e.g., in particular sectors) or diffused (e.g., across the whole population). The more the costs fall on powerful interests, and the more uncertain, distant, intangible and diffuse the expected benefits, the more difficult it will be for governments to implement the required measures. In short, they run the risk of losing votes and losing office.

Mitigating climate change provides a classic example: the upfront costs (e.g., arising from regulatory or price-based measures to reduce greenhouse gas emissions) are relatively certain, visible and tangible, while the long-term benefits (e.g., in the form of reduced ecological damage and lower adaptation costs) are less certain, more intangible, often distant and highly diffuse (across time and space). Unfortunately, many other policy problems have a similar structure to intertemporal payoffs. Hence, governments often face 'hard choices'. Should they take action today and confront the inevitable political risks or defer the needed measures to the following parliamentary term or another government? Yet delay may simply increase the long-term costs and/or reduce the expected benefits. This is especially true in the case of so-called 'creeping problems' or 'slow burner problems': these tend to grow steadily but imperceptibly until they reach a tipping point or a high enough level of visibility to capture the public's attention. But by then, considerable damage may be unavoidable. Examples include growing antimicrobial resistance, increasing microplastic pollution, declining levels of political trust and the gradual increase in surveillance of individuals by governments and other entities.

Hard political choices generated by policy problems that entail non-simultaneous exchanges are among the factors contributing to a 'presentist bias' or 'short-termism' in public governance.⁸ Short-termism, as highlighted in chapter 1, is inimical to prudent long-term governance. But non-simultaneous exchanges are not the only source of short-termism. At least three other contributors are involved: the human condition; uncertainty; and various political, institutional and constitutional factors. These are noted briefly below.

The human condition

Extensive evidence is available indicating that humans generally have a 'positive time preference'; that is, they tend to be impatient and place a higher value on their current than future wellbeing or utility.

⁸ See, for example, Boston, *Governing for the future*, above n 1; S Caney (2016) Political short-termism. *Academic Foresights* 16. http://www.academic-foresights.com/Political_Short-Termism.html; MK MacKenzie (2016) Institutional design and sources of short-termism. In I Gonzalez-Ricoy & A Gosseries (eds) *Designing institutions for future generations*. Oxford: Oxford University Press, pp 24–48; D Thompson (2010) Representing future generations: Political presentism and democratic trusteeship. *Critical Review of International Social and Political Philosophy* 13(1): 17–37.

In short, future interests are discounted.⁹ Hence, policies that produce short-term benefits and defer costs to the future are likely to be viewed more favourably than alternatives. For instance, the evidence suggests that citizens are willing for governments to spend substantial sums on recovery efforts following a natural disaster but are reluctant to support highly cost-effective risk-reduction measures.¹⁰

Cognitive biases help explain and strengthen short-termism.¹¹ People are prone to displaying loss aversion and, consequently, place more weight on losses than gains. This leads to public support for policies that minimise present costs, even when it is clear that investing in the near-term will lead to enhanced future wellbeing. Humans are also inclined to pay little attention to what is 'out of sight' and, therefore, 'out of mind'. Because many long-term problems are 'creeping problems', this 'attention deficit' amplifies the presentist bias. Other aspects of human nature that encourage short-termism include self-interest, weakness of will (i.e., deciding to avert a long-term threat but giving into temptation), the 'identifiable victim effect' (i.e., being less likely to have concern for societal costs when those affected are not identifiable individuals but a distant and obscure population), positive illusions (e.g., illusions of control over events and invulnerability to risk) and procrastination.¹²

In sum, various human characteristics contribute to substantial discounting of future costs and benefits, thereby incentivising governments to favour policies that serve immediate needs over those that better enhance future wellbeing. In this way, individual short-termism is aggregated and translated into governmental short-termism.

Uncertainty

Anything future related is inherently uncertain. Even when long-term trends and problems have relatively predictable impacts (e.g., population ageing or sea level rise), general uncertainty about the future can lead citizens and policy-makers to discount or underestimate the future costs of these problems, as well as the benefits of any policy responses. This may be because of uncertainty over what external factors may affect the trajectory of the issues or doubts over policy effectiveness. This uncertainty increases the further into the future the issues extend.

Policy complexity exacerbates the problem of uncertainty. Many long-term issues are complex and often require complex solutions that must be implemented over extended periods. In some cases, considerable uncertainty may exist over the causal mechanisms underpinning the available policy solutions. For instance, some policies achieve results through a series of separate causal chains (or intervention logics). But some of these mechanisms may be poorly understood or rest on questionable behavioural assumptions. Equally, the political, economic and social conditions during which the policy is being implemented may be substantially different from that originally anticipated. Such factors may, in turn, affect the level of public support for the policies in question.

If citizens are doubtful about whether a government will honour its commitments or whether a future government may overturn or reverse a proposal, they will be less inclined to support such policies. Generally, the lower the level of political trust in a country and the weaker the extent of cross-party collaboration the more difficult it will be for governments to secure and sustain public support for policies to address major long-term issues. For various reasons, political trust has been in decline in many countries over recent decades, while polarisation has tended to increase. In New Zealand, the most recent data point to a rebound in political trust, but this may be a temporary phenomenon.¹³

⁹ Discounting in the technical economic sense is the application of a discount rate to a future sum of money to determine its present value, and helps one choose between various investment opportunities (see L Heinzerling (1999) Discounting our future. *Land and Water Law Review* 34(1): 39–74). When applied to people discounting their future interests, it means that their present utility, or interests, are of greater value than their future utility, at least when considering only the temporal distance between the two.

¹⁰A Healy & N Malhorta (2009) Myopic voters and natural disaster policy. *American Political Science Review* 103(3): 387–406.

¹¹D Kahneman (2011) *Thinking, fast and slow*. London: Macmillan.

¹² S Caney (2016) Political institutions for the future: A fivefold package. In I Gonzalez-Ricoy & A Gosseries (eds) *Designing institutions for future generations*. Oxford: Oxford University Press, pp 135–155.

¹³ See Institute for Governance and Policy Studies (2018) *More trust in Government, less in churches and charities*. <https://www.victoria.ac.nz/igps/commentaries/1626066-survey-shows-more-trust-in-government>

Political, institutional and constitutional factors

Political trust is one of several political and related institutional and constitutional factors that can affect the quality of long-term governance. For instance, the length of the parliamentary term is likely to impinge on the way governments address major long-term challenges. In this regard, New Zealand's three-year parliamentary term is short by international standards. Currently, across 190 lower houses and unicameral national legislatures, only nine have a term of three years or less, 74 have a four-year term and 103 have a five-year term.¹⁴ Other things being equal, a short time horizon is likely to incentivise a government to focus on those matters that can readily be tackled within the available timeframe. Short electoral cycles are compounded by the changing nature of social media and the news media. Relentless news reporting puts governments under constant pressure to respond quickly to rapidly changing issues and show that it is taking action.¹⁵ Again, this is likely to encourage a short-termist approach to policy-making, as well as increasing the risk of policies being insufficiently thought through. Policy-makers may also be influenced at times by an expectation that they will escape accountability for the (negative) impacts of their decisions that only become apparent after they have left office.¹⁶

Other political and constitutional factors contribute to political short-termism. For instance, future generations, for obvious reasons, are unable to vote. They cannot therefore protect their interests. They are wholly reliant on current voters to safeguard their wellbeing. At present, New Zealand lacks any significant constitutional protections for future generations. In part, this reflects the lack of a codified, entrenched constitution with the status of supreme law – especially one with specific justiciable safeguards for future citizens. Equally, ordinary statutes, such as the Constitution Act 1986 and New Zealand Bill of Rights Act 1990, contain no explicit provisions designed to protect the interests of future generations. New Zealand also has no institutions, such as a Future Generations Commissioner (as in Wales), with a legal mandate to 'represent' future generations in current governmental decision-making. Against this are various institutional arrangements and commitment devices, discussed later in the chapter, which help ensure that long-term interests are not entirely lost sight of.

Even if New Zealand had stronger political, legal and even constitutional protections for future generations, issues would arise in giving effect to the intent of such arrangements. One relates to uncertainties over the precise nature of the interests of future generations, and extensive philosophical literature supports this. Another problem is that just as current generations have multiple and often competing interests, the same is highly likely for future generations. Hence, leaving aside intertemporal conflicts of the kind discussed above, a separate, fundamentally ethical challenge exists of deciding how the needs and interests of future generations (assuming these can be satisfactorily identified) should be prioritised. For instance, future generations are likely to have an interest in the protection of biodiversity but the financial resources required to protect biodiversity are inevitably limited. High public expenditure on conservation and environmental protection may contribute to increased public debt (e.g., in real terms per capita), thus leaving future generations with a greater fiscal burden.

Resolving such tensions is not straightforward. Indeed, such issues are one of the reasons why current political parties disagree about many things: their priorities differ, not only in relation to their near-term goals but also regarding their long-term goals. Even when parties agree on which interests matter most and thus have broadly similar priorities, they often disagree about the best mix of policies to secure their desired goals. It is for such reasons that it is frequently difficult to secure, and then sustain, a cross-party consensus on the most effective way to address commonly acknowledged policy problems. Other things being equal, negotiating inter-party agreements on major long-term issues will be easier where values are broadly shared across the parliamentary parties and wider political system. To the extent that societal goals and values are becoming more polarised, reaching agreement on how to safeguard future interests is likely to be even more difficult.

¹⁴ Inter-Parliamentary Union (2019) *Compare data on parliaments*. https://data.ipu.org/compare?field=country%3A%3Afield_structure_of_parliament#map

¹⁵ Caney, Political institutions for the future, above n 12.

¹⁶ A Crewe & I King (2014) *The blunders of our governments*. London: Oneworld Publications.

Assessing the quality of long-term governmental performance

The previous section highlighted reasons why protecting long-term interests is often challenging and why short-term interests tend to prevail over long-term ones. It also drew attention to the fact that policy-makers often disagree about which future interests should be prioritised and how current and future interests – to the extent that they are in tension – should be balanced. For such reasons, there are bound to be different views about how the quality of long-term governance and stewardship should be assessed. Hence, if the House is to scrutinise such matters, how should it proceed? How should effective parliamentary oversight be conducted? Or, to put it differently, what would constitute a robust, comprehensive and proactive approach to forward-looking parliamentary scrutiny of the executive (i.e., ministers and public agencies)? Specifically, what should the House do? What questions should ministers and officials be asked? What kinds of information should be sought? What sort of analysis should be undertaken? What criteria should guide deliberations?

Across the democratic world, there is no commonly applied approach to forward-looking legislative scrutiny and certainly no universally agreed assessment criteria. Instead, many frameworks are evident, each with different (albeit overlapping) criteria. Legislators in parliamentary democracies, in other words, adopt different approaches.

Outlined below is a possible approach for assessing the quality of long-term governance and stewardship with criteria that could be used by Parliament if it were to adopt this approach. The approach draws on the concept of ‘anticipatory governance’ and highlights the nature and attributes of good anticipatory governance. From this perspective, assessing the quality of long-term governance and stewardship can be reframed in terms of whether the executive branch is exercising sound anticipatory governance. Of course, other possible conceptual or analytical frameworks exist (e.g., those that focus on risk assessment, enhancing sustainability, boosting resilience and improving intergenerational wellbeing). Each brings a different lens to bear on the problem. But in practice, the various frameworks tend to overlap: they highlight similar issues and adopt many of the same criteria.¹⁷

Anticipatory governance

The concept of ‘anticipatory governance’ is relatively new, but its fundamental attributes have been recognised for millennia.¹⁸ In essence, anticipatory governance is about looking ahead. It involves anticipating tomorrow’s problems and adopting proactive and precautionary measures to safeguard citizens’ long-term interests. It endeavours to take a long view, regularly looking for warning signals, as well as new, but often unexpected, opportunities. It assesses the long-term consequences of today’s decisions and events, seeking wherever possible to minimise future harms. It considers risks – especially systemic risks – over extended timeframes and develops the capability and tools for rigorous risk management. It posits different scenarios and conducts regular ‘stress tests’ to ascertain the robustness of current institutional, policy and regulatory settings. It recognises the importance of resilience and the interconnected nature of its various dimensions (i.e., economic, social, infrastructural, institutional, environmental and cultural). It does not yearn for false certainties. Instead, it embraces the need, given a dynamic and unpredictable world, for anticipatory planning and adaptive management. It recognises that the past may provide little guidance to the future. After all, long-standing trends may cease and gradual adjustments may be superseded by non-linear changes: disruptive technologies, natural disasters, systemic financial failures or abrupt climatic shifts may fundamentally alter a nation’s trajectory.

¹⁷ For several New Zealand contributions of relevance to assessing long-term governance see, for instance, the report of the Controller and Auditor-General (2014) *Reflections from our audits: Our future needs – is the public sector ready?* Wellington, Office of the Auditor-General; and M Frieling and K Warren (2018) *Resilience and future wellbeing: The start of a conversation on improving the risk management and resilience of the living standards capitals*. <https://treasury.govt.nz/sites/default/files/2018-07/dp18-05.pdf>

¹⁸ J Boston (2014) Enhancing policy farsightedness. *Risk and Regulation* 28(Winter): 10–15; Boston, *Governing for the future*, above n 1; J Boston (2017) *Safeguarding the future: Governing in an uncertain world*. Wellington: Bridget Williams Books; E Boyd, B Nykvist, S Borgstrom & IA Stacewicz (2015) Anticipatory governance for social-ecological resilience. *AMBIO* 44(Suppl 1): 149–161; L Fuerth & E Faber (2012) *Anticipatory governance: Practical upgrades – Equipping the executive branch to cope with increasing speed and complexity of major challenges*. Washington, DC: George Washington University; L Fuerth & E Faber (2013) Anticipatory governance: Winning the future. *The Futurist* 47(4): 42–49; DH Guston (2014) Understanding ‘anticipatory governance’. *Social Studies of Science* 44(2): 218–242; R Quay (2010) Anticipatory governance: A tool for climate change adaptation. *Journal of the American Planning Association* 76(4): 496–511.

For such reasons, anticipatory governance is proactive. It values vigilance, preparedness, precaution and wise stewardship. Generally, it favours prevention over cure. It commends good evidence, critical evaluation and continuous improvement. It celebrates creativity, curiosity, innovation and imaginative reflection. It endorses a holistic approach to assessing performance and focuses not only on fiscal deficits but social, ecological and democratic deficits. Equally, it acknowledges the threat posed by deficits in adaptive capacity,¹⁹ especially in an era of remarkable technological advances, unprecedented environmental changes and multiple hazards.

In protecting future interests, anticipatory governance seeks robust, yet flexible, democratic institutions and processes. In so doing, it is alert to the insights of behavioural economics and social psychology, especially the influence of cognitive biases on decision-making.²⁰ Likewise, it recognises the dangers of path dependence, vested interests and political myopia. For such reasons, it chooses institutional mechanisms, analytical tools, policy frameworks and ‘commitment devices’ that bring the long term into short-term focus and ensure tomorrow’s interests are actively considered – and properly represented – in today’s decisions. The goal is to embed the future in the present, thereby ameliorating the presentist bias that often afflicts democratic processes.²¹

Assessing the quality of anticipatory governance – possible criteria

How might the quality of anticipatory governance be evaluated? Before outlining possible criteria, several general observations deserve mention.

First, assessing the quality of anticipatory governance is part of the wider task of judging the overall quality of governance. While good governance must be anticipatory, it must also be many other things: legal, honest, legitimate, democratic, effective, efficient, fair, accountable, sustainable and much else.

Second, the *anticipatory* part of good governance has no clear boundary. Anticipatory governance is not simply about good planning for the future. Even if it were, good planning is demanding and requires many things: comprehensive and reliable information, excellent monitoring and reporting, capable staff, adequate resources, sound analytical tools and robust decision-making processes. Accordingly, assessments of anticipatory governance must go beyond such topics as strategic planning, foresight methods, risk management or emergency management. Instead, a broad, systematic and holistic approach is required, one that recognises the importance of independencies, feedback and adaptive processes.

Third, all assessments of the quality of governance necessarily involve the exercise of judgement. They are therefore potentially controversial. Regarding anticipatory governance, additional challenges are evident. As highlighted, the future is uncertain, in many policy areas there is deep or radical uncertainty. Yet evaluators (parliamentary or otherwise) of the quality of anticipatory governance are time bound. They cannot jump decades or centuries forward in time and then look back to assess how well the governments of the early 21st century prepared for, or navigated, the future. Historians many generations hence will enjoy the benefit of such hindsight, but current observers do not. Accordingly, any assessment today of the quality of anticipatory governance is bound to be imperfect and incomplete. Equally, evaluators cannot rely on current performance data or projections of existing trends.²² Historical data, after all, may be unreliable for judging future performance – whether that of our economy, public institutions or regulatory frameworks. And abrupt economic, social, cultural, environmental or technological changes may render current trajectories invalid.

¹⁹ J Lawrence (2016) Implications of climate change for New Zealand’s natural hazards risk management. *Policy Quarterly* 12(3): 30–39.

²⁰ Kahneman, *Thinking, fast and slow*, above n 11; R Thaler & C Sunstein (2008) *Nudge: Improving decisions about health, wealth and happiness*. New Haven, Connecticut: Yale University Press.

²¹ Healy & Malhorta, Myopic voters and natural disaster policy, above n 10; P Heller (2003) *Who will pay? Coping with aging societies, climate change and other long-term fiscal challenges*. Washington, DC: IMF; A Jacobs (2011) *Governing for the long-term*. Cambridge: Cambridge University Press; A Jacobs (2016) Policymaking for the long term in advanced democracies. *Annual Review of Political Science* 19: 433–454; MK MacKenzie (2013) *Future publics: Democratic systems and long-term decisions*. Doctoral thesis. University of British Columbia, Vancouver, Canada; D Thompson (2005) Democracy in time: Popular sovereignty and temporal representation. *Constellations* 12(2): 245–261; Thompson, Representing future generations, above n 8.

²² H Aaron (2000) Presidential address – Seeing through the fog: Policymaking with uncertain forecasts. *Journal of Policy Analysis and Management* 19(2): 193–206.

Assessing the quality of anticipatory governance poses additional problems. While numerous criteria can be suggested, many are hard to operationalise and apply. For instance, one possible test of good anticipatory governance is whether policy-makers and public managers value and promote resilience. The idea of resilience – which is the focus of increasing attention internationally – includes flexibility and adaptability, the capacity to bounce back to a desired equilibrium after a shock and the ability to absorb chronic stresses or abrupt impacts without serious damage or disruption.²³ As defined in the UN International Strategy for Disaster Reduction, it means:

The ability of a system, community or society exposed to hazards to resist, absorb, accommodate to and recover from the effects of a hazard in a timely and efficient manner, including through the preservation and restoration of its essential basic structures and functions.²⁴

But while resilience can be defined, assessing the resilience of systems, governments, individual public institutions, societies or communities is far from straightforward. Resilience has many features (e.g., robustness, redundancy, resourcefulness, responsiveness and the capacity to recover or recuperate).²⁵ Its relevance spans multiple policy domains and institutional contexts. And while there are numerous possible indicators, the relevant data are often unavailable. Assessing resilience also raises important issues of judgement. What criteria, for example, should be used to assess the capacity of an economy to absorb a major financial shock or a community to cope with a large seismic event? How much cushion against possible adverse outcomes is desirable? How much in-built redundancy should there be? What level of risk is acceptable? How much should be spent on risk reduction? And who should be the judge? Similar problems arise in defining and applying other important principles and concepts of relevance to protecting future interests, such as the nature of intergenerational justice, sustainability and good stewardship.²⁶

Fourth, if sound anticipatory governance has many different attributes, as argued above, then multiple criteria will be needed to assess the performance of a particular government and the wider system of public governance. While some criteria may be output- or outcome-oriented, others will need to consider the design of political institutions and policy-making processes. Hence, they will be concerned with values, norms, principles and procedures. Crucial here is whether long-term costs and benefits, as well as significant risks and opportunities, are given adequate governmental attention. This includes whether governments make use of analytical tools, policy frameworks and decision-making processes that encourage reflection on long-term policy issues and incentivise decision-makers to devote some of their limited time, mental energy and political capital to protecting future interests.²⁷

Fifth, for good anticipatory governance, decision-makers must tackle several enduring challenges – ones that span all democratic (and non-democratic) systems and that often require tough political choices. Listed below are five such challenges. These must be central to any proactive, systematic, forward-looking scrutiny by Parliament.

²³ K Warren (2014) *Evidence of resilience of New Zealand's capitals*. Internal Paper. Wellington: The Treasury.

²⁴ United Nations (2009) *2009 UNISDR terminology on disaster risk reduction*, p 24. https://www.unisdr.org/files/7817_UNISDRTerminologyEnglish.pdf

²⁵ World Economic Forum (2013) *Global Risks 2013*. Geneva: World Economic Forum, pp 38–39.

²⁶ K Arrow, P Dasgupta, L Goulder, G Daily, P Ehrlich ... B Walker (2004) Are we consuming too much? *Journal of Economic Perspectives* 18(3): 147–172; E Brown Weiss (1989) *In fairness to future generations: International law, common patrimony, and intergenerational equity*. Tokyo: The United Nations University; G Chichilnisky (1996) An axiomatic approach to sustainable development. *Social Choice and Welfare* 13: 231–257; S Zuber (2016) Measuring intergenerational fairness. In I González-Ricoy & A Gosseries (eds) (2016) *Institutions for future generations* (pp 65–82). Oxford: Oxford University Press.

²⁷ See, for instance, W Ascher (2009) *Bringing in the future: Strategies for farsightedness and sustainability in developing countries*. Chicago: Chicago University Press; Boston, *Governing for the future*, above n 1, Boston, *Safeguarding the future*, above n 18; J Boston & R Prebble (2013) The role and importance of long-term fiscal planning. *Policy Quarterly* 9(4): 3–8; González-Ricoy & Gosseries, *Institutions for future generations*, above n 1; D Helm (2015) *Natural capital: Valuing the planet*. New Haven, Connecticut: Yale University Press; Jacobs, *Governing for the long-term*, above n 10; C James (2013) Making big decisions for the future. *Policy Quarterly* 9(4): 21–28; J Mansbridge & C Martin (eds) (2013) *Negotiating agreements in politics: Task force report*. Washington, DC: American Political Science Association; E Ostrom (2010) Beyond markets and states: Polycentric governance of complex economic systems. *American Economic Review* 100: 641–672; R Reeves (2015) *Ulysses goes to Washington: Political myopia and policy commitment devices*. <https://www.brookings.edu/wp-content/uploads/2016/06/Ulysses.pdf>

1. *Managing competing fiscal imperatives in a manner consistent with long-term fiscal sustainability and intergenerational fairness*

Governments are pressured to spend more and tax less, and to run larger deficits in the interests of short-term electoral gains, but at the expense of higher levels of net public debt, thereby increasing the fiscal burden on future taxpayers. Governments must resist such pressures if they are to avoid fiscal crises or unfairly burdening future generations.

2. *Investing adequately in a portfolio of capital stocks, notably financial, manufactured, human, social, intellectual and natural capital²⁸*

Governments are pressured to underinvest in the protection, maintenance and improvement of various capital assets in the interests of reducing tax burdens, but at the expense of future economic, social and environmental benefits. This applies to manufactured or physical assets (e.g., underinvestment in public infrastructure for transport, energy, communications and water services), as well as human capital (e.g., underinvestment in education and training, preventative health measures, social mobility and prisoner rehabilitation and reintegration), intellectual capital (e.g., underinvestment in research and development), social capital (e.g., underinvestment in the social integration of new migrants and refugees) and natural capital (e.g., underinvestment in the protection of biodiversity and the effective regulation of negative environmental externalities).

3. *Managing conditionally renewable resources*

Governments are pressured to allow renewable resources, such as forests, fisheries and fresh water supplies, to be overexploited in the interests of short-term commercial gains, thereby putting at risk their sustainability and long-term societal returns. For prudent long-term governance, such pressures must be recognised and processes enacted to help minimise the risk that renewable resources will be poorly managed.

4. *Managing the full spectrum of risks facing a society, including preparing for low-probability but high-impact events*

Governments are pressured to underinvest in risk management and mitigation because of the short-term costs, but at the expense of higher future costs. Governments must identify, mitigate and manage numerous risks, such as natural hazards (e.g., seismic, meteorological and hydrological), threats to financial stability, threats to the environment (e.g., from radioactive wastes and other highly toxic substances), biological threats (e.g., from the creation of new organisms), health-related threats (e.g., from growing antimicrobial resistance and pandemics), and the risks to national security from cyber-attacks, terrorist plots and armed conflicts.

5. *Preparing for, and responding to, significant long-term economic, social and environmental changes*

Governments are faced with managing the impacts of major technological innovations, demographic shifts, evolving family structures, changing patterns of human settlement, increasing socio-cultural diversity and climate change (e.g., changing disease vectors, more extreme weather events, ocean acidification and sea level rise). Governments are pressured to delay their responses to creeping policy problems, emerging trends and looming issues because of the short-term fiscal and political costs, but at the expense of greater future costs.

Finally, given the considerations noted above, it should be evident that the prospect of developing a single aggregate indicator or composite measure of the quality of anticipatory governance is slim. Too many variables are available and they cover too many different kinds of performance. There is, however, potential to develop a dashboard of indicators.

²⁸ Some approaches distinguish only four or five types of capital, with financial and manufactured capital combined and/or human and intellectual capital combined. (See J Gleeson-White (2014) *Six capitals: The revolution capitalism has to have – Or can accountants save the planet?* Sydney: Allen & Unwin; Treasury (2012) *Improving the living standards of New Zealanders: Moving from a framework to implementation*. Conference Paper. Wellington: The Treasury; Treasury (2015) *Public Finance Act: Strategic intentions guidance*. <https://treasury.govt.nz/sites/default/files/2015-12/pfa-si.pdf>). A classification or system of demarcation has not been universally agreed. Note, too, that assets can be defined in different ways, but at a minimum they are things from which many benefits are expected to flow.

Taking account of the remarks above, table 3.1 outlines possible criteria legislators could use to assess the quality of anticipatory governance. Under the approach adopted, 17 criteria are organised within seven broad categories:

1. overarching principles
2. planning processes and foresight
3. policy and regulatory frameworks
4. representation of future interests
5. performance measures and reporting
6. resilience, risk reduction and emergency management
7. mechanisms for problem solving and consensus building to address long-term challenges.

While relatively comprehensive, table 3.1 is by no means complete. Under each category, additional types of criteria could be added, such as those of relevance to different tiers of government, specific institutions or discrete policy domains (e.g., culture and heritage, health, taxation, security, defence and international relations). Similarly, many extra performance indicators could be added. Moreover, the approach sketched here provides no ranking of the criteria. Nevertheless, it serves as a useful starting point.

Table 3.1: Criteria for assessing anticipatory governance – with application in the context of parliamentary scrutiny of the executive

Criteria		Brief comment on criteria	Examples of questions that could guide and inform parliamentary scrutiny
Overarching principles			
1	Policy settings should be consistent with well-established principles of intergenerational justice	While intergenerational justice has many different principles, there is wide support for the view that current generations should not inflict serious, widespread or irreversible harm or act in ways that compromise the capacity of future generations to meet their needs. Ideally, current generations should act in ways that ensure future generations are better off – as judged on the basis of multiple criteria.	<ul style="list-style-type: none"> • What information does the Government produce about the intertemporal impacts of its policy decisions? • What principles of intergenerational justice, if any, are used to inform policy decisions with significant intertemporal implications? • Is there a case for having statutory (or other) requirements for governments to report periodically on whether their policies are consistent with well-established principles of intergenerational justice?

Criteria	Brief comment on criteria	Examples of questions that could guide and inform parliamentary scrutiny
<p>2 The principle of sustainability should be embedded in all relevant policy frameworks</p>	<p>The concept of sustainability is open to multiple interpretations, including the distinction between 'strong' and 'weak'. Important here is the issue of whether, and to what extent, different kinds of capital (e.g., financial, manufactured, human, social and natural) are substitutable.</p>	<ul style="list-style-type: none"> • Are the existing principles of responsible fiscal management (in the Public Finance Act 1989) fit for purpose? • Is there a case for requiring governments to maintain, at a minimum, the aggregate level of renewable natural capital? • Should there be statutory requirements for the economic rents from the depletion of non-renewable natural capital being used to fund efforts to enhance stocks of renewable natural capital? • Is there comprehensive environmental accounting, including the valuing of ecosystem systems? • How effective are current policy measures for protecting biodiversity?
<p>3 Policy-makers at all levels of government should be obliged to adhere to the precautionary principle</p>	<p>Many different versions exist of the precautionary principle with widely divergent implications for decision-making. The main issues include: when and how a precautionary approach is applied; where the burden of proof should rest for demonstrating the existence or absence of a threat of harm; how the potential threats should be balanced against other relevant considerations; and how responsibility for any harm should be allocated.</p>	<ul style="list-style-type: none"> • How is the precautionary principle understood and how is it applied in policy-making? Does the burden of proof rest with those proposing actions that may generate a new risk or threat of harm?
<p>4 Public sector managers should be required to exercise prudent stewardship of their organisations</p>	<p>The notion of stewardship, while closely related to sustainability, has implications not only for durability and resilience but for the prudent and responsible management of resources – financial, human and so on.</p>	<ul style="list-style-type: none"> • How is the Government monitoring the implementation of the State Sector Act 1988 provisions that require public sector managers to exercise prudent stewardship of their organisations, including assets and liabilities, long-term sustainability, overall health and capability, and capacity to offer high-quality advice to successive governments? • How is the Government monitoring whether public sector managers exercise good regulatory stewardship, in the sense that the regulatory frameworks they administer are fit for purpose, implemented in a cost-effective manner and reflect changing needs and circumstances?

Criteria	Brief comment on criteria	Examples of questions that could guide and inform parliamentary scrutiny
Planning processes and foresight		
5	Governments should be required to undertake long-term planning of public infrastructure	The proper maintenance, renewal and improvement of public infrastructure is of critical importance for protecting future interests. No agreement has been reached, however, on what constitutes an optimal level of investment in infrastructure or how the impacts of long-term trends, such as sea level rise, should be taken into account.
<ul style="list-style-type: none"> • What requirements are there for central and subnational governments to prepare plans and strategies for the management of public infrastructure over a long time horizon (e.g., 30-plus years)? • To what extent are those involved in the planning of public infrastructure having proper regard for the evolving risk environment, including the long-term impacts of climate change and the need for adaptive management? 		
6	Governments should be required to undertake long-term planning across the full range of their investment activities	There is a question mark over what constitutes an 'investment', how 'returns' on investments should be assessed, and when and how investment criteria should be applied in allocating public resources.
<ul style="list-style-type: none"> • Is the level and composition of public investment sufficient to meet expected future demands? • What attention is given to creeping problems in long-term planning? 		
7	Robust foresight processes should be in place at all levels of government, including requirements for independent bodies to report periodically on major risks and vulnerabilities across the full range of policy arenas	Many different methods and processes are available for undertaking foresight, including horizon scanning, trend analysis and technology assessment. There is merit in institutionalising foresight processes within both the executive and legislative branches of government to ensure risks are identified and proper attention is given to creeping policy problems.
<ul style="list-style-type: none"> • How is foresight undertaken by the Government and individual departments and agencies? What techniques are used and what impact, if any, do foresight studies have on policy-making? • What kinds of technology assessments, if any, are undertaken by government departments and agencies? • Is there a case for requiring the Government to produce periodic reports on the future, identify major risks and vulnerabilities as well as creeping problems, and outline its plans to address these risks and problems? 		
Policy and regulatory frameworks		
8	The long-term costs and benefits of different policy options should be clearly identified and made transparent to policy-makers	The weight attached to long-term costs and benefits in governmental decision-making depends heavily on the discount rate applied. No agreement has been reached on the optimal discount rate.
<ul style="list-style-type: none"> • What discount rate(s) is (or are) used in cost-benefit analyses in the public sector? Are projects assessed using different discount rates and, if so, with what are the consequences for decision-making? • How much attention is given to the risk of irreversible consequences? 		

Criteria	Brief comment on criteria	Examples of questions that could guide and inform parliamentary scrutiny
<p>9 Regulatory frameworks should ensure that all significant negative externalities are properly internalised</p>	<p>The internalisation of negative externalities via price-based policies (e.g., polluter pays) helps ensure that long-term costs are properly taken into account by policy-makers, investors and consumers, thus enhancing sustainability and the efficient allocation of resources. Often, however, formidable difficulties can occur in assessing the harm caused by various activities and determining the appropriate social cost, such as the social cost of carbon.</p>	<ul style="list-style-type: none"> • Do existing regulatory frameworks ensure that all significant negative externalities, such as damaging environmental and health impacts, are properly priced? If not, what other approaches are taken to minimise negative externalities? • What improvements are needed in existing regulatory frameworks to better protect the interests of future generations?
<p>10 Rigorous systems should be in place for policy learning</p>	<p>Policy evaluation is critical for the formulation and implementation of good policies. Looking back is one of the main requirements for looking forward.</p>	<ul style="list-style-type: none"> • How often are significant policies and regulatory frameworks reviewed and evaluated? • How much does the Government invest in policy evaluation and is the amount increasing or declining? • What procedures are in place to ensure that the results of all major policy evaluations are reported? • What procedures are in place to ensure that the lessons from major natural (and other) disasters are incorporated into policy frameworks?
<p>Representation of future interests</p>		
<p>11 Independent public institutions should be set up with a legislative mandate to speak on behalf of clearly specified future-oriented interests</p>	<p>Many future-oriented interests lack effective advocacy in democratic processes. Dedicated public institutions can help to compensate for this deficiency.</p>	<ul style="list-style-type: none"> • Are future interests adequately represented in governmental decision-making? How does the Government assess such matters? • Is there a case for establishing an independent public institution with a specific mandate to study creeping problems and publish periodic reports on major long-term risks?
<p>Performance measures and reporting</p>		
<p>12 Comprehensive and holistic measures should be formed for assessing economic, social and environmental performance and regular reporting of outcomes across the full range of policy domains</p>	<p>A narrow focus on a limited range of performance measures, such as economic indicators like gross domestic product or fiscal aggregates, can provide a misleading impression of a nation's overall performance. Comprehensive monitoring and reporting is vital to provide a holistic and accurate assessment as well as the evidence base for better long-term policy-making.</p>	<ul style="list-style-type: none"> • How has the new wellbeing framework and related living standards dashboard affected policy-making and priority setting, including intertemporal choices? • Is governmental performance information reported in ways that enhance public understanding, including highlighting warning signals and the implications of identified trends?

Criteria	Brief comment on criteria	Examples of questions that could guide and inform parliamentary scrutiny
13 Governments should be required to publish comprehensive national balance sheets covering all forms of capital, not merely public sector financial liabilities and assets	The aim of comprehensive wealth accounting and national balance sheets covering all forms of capital is to provide information on trends in stocks rather than merely flows. Calculating comprehensive wealth, however, poses huge conceptual, methodological and valuation issues. Hence, estimating a nation's net worth is likely to be challenging and possibly misguided.	<ul style="list-style-type: none"> • Are efforts being made to develop more comprehensive national balance sheets incorporating the full range of capital stocks?
14 Governments should report regularly on how they are fulfilling their international obligations, especially those with long-term implications	New Zealand governments have signed and/or ratified numerous international agreements, many of which require actions to protect the interests of, or improve outcomes for, future generations.	<ul style="list-style-type: none"> • What steps is the Government taking to fulfil its obligations in relation to the Sustainable Development Goals (Paris Agreement and so on)?
Resilience, risk reduction and emergency management		
15 Comprehensive policies should be formulated for disaster risk reduction and strengthening the resilience of all critical infrastructure and systems	Inadequate emergency management, disaster preparedness and risk reduction efforts can result in a society suffering significant long-term costs.	<ul style="list-style-type: none"> • Are existing policy frameworks consistent with international best practice, such as the goals and principles of the Sendai Framework for Disaster Risk Reduction (2015)? This includes a strong emphasis on disaster risk management, preventing new risk, reducing existing risk and strengthening resilience, and covers both natural and human-induced hazards, including environmental, technological and biological hazards and risks. • What efforts are made to ensure proper consideration is given to systemic risks, policy interdependencies, feedback, tipping points, non-linear processes and cascading risks? • How often is the national risk register being updated and with what impact on decision-making?
16 Regular 'stress-tests' should be undertaken to evaluate the resilience and adaptive capacity of public institutions, policy settings and regulatory frameworks	In the context of deep uncertainty and unavoidable risks, it is imperative to seek a high level of resilience and adaptive capacity, at multiple levels of governance.	<ul style="list-style-type: none"> • Which public institutions are required to 'stress-test' their resilience and in accordance with what criteria?

Criteria	Brief comment on criteria	Examples of questions that could guide and inform parliamentary scrutiny
Mechanisms for problem solving and consensus building to address long-term policy challenges		
17	Governments should use a wide range of participatory processes for policy-making on long-term issues	Participatory processes of various kinds can be useful in enhancing public understanding, building trust, securing agreement on shared goals and negotiating solutions to complex intertemporal issues. <ul style="list-style-type: none"> • What use is being made of deliberative processes, multi-stakeholder forums and collaborative governance arrangements, especially for issues with significant intertemporal dimensions and where solutions require non-simultaneous exchanges?

Source: Modified from J Boston (2017) Anticipatory governance: How well is New Zealand safeguarding the future? *Policy Quarterly* 12(3): 18–20.

New Zealand’s current policy framework for long-term governance

This section outlines some of the current substantive and procedural commitment devices that require central and subnational government to consider various long-term matters. Table 3.2 summarises statutory and non-statutory policy initiatives that fit under the main sectoral headings. General comments follow regarding the strengths and weaknesses of the current framework.

First, an important caveat: while many policies are in place, to what extent they are well designed, properly implemented and cost-effective is less certain, and in-depth research into the impact of the following policy initiatives and statutory provisions was out of the scope of this study. Effective parliamentary scrutiny would help answer such questions.

Table 3.2: New Zealand: policy initiatives in recent decades to enhance prudent long-term governance

Policy domain	Examples of specific policy initiatives
1 Economic management	<ol style="list-style-type: none"> 1 Reserve Bank of New Zealand Act 1989 – transferred formal decision rights for the implementation of monetary policy to the Reserve Bank; the bank is also responsible for the prudential management of the financial system 2 Fiscal Responsibility Act 1994 – established legally binding principles of responsible fiscal management (now embodied in the Public Finance Act 1989) 3 New Zealand Superannuation Fund (2003) – established a sovereign wealth fund designed to help meet the cost of future public pension liabilities in the context of an ageing population 4 Statement on the Long-term Fiscal Position (2004) – requirement under the Public Finance Act for the Treasury to produce at least every four years an independent assessment of the fiscal issues facing the country over a 40-year horizon 5 Investment Statement (2013) – requirement under the Public Finance Act for the Treasury to produce at least every four years an assessment of the shape, health and evolving value of the Crown’s portfolio of assets and liabilities, and forecast changes in the portfolio’s composition and size 6 Public Finance (Fiscal Responsibility) Amendment Act 2013 – legal requirement for the Government to have regard to its fiscal strategy’s likely impact on present and future generations 7 Establishment of the Productivity Commission (2011) – provides advice to the Government on improving productivity and enhancing the overall wellbeing of citizens

Policy domain	Examples of specific policy initiatives
2 Environmental sustainability	<ol style="list-style-type: none"> 1 Resource Management Act 1991 – designed to promote the sustainable management of natural and physical resources 2 Climate Change Response Act 2002 – designed to enable New Zealand to meet its obligations under the United Nations Framework Convention on Climate Change and related multilateral agreements 3 Environmental Reporting Act 2015 – designed to ensure regular, accurate and independent reporting across five environmental domains: air, atmosphere and climate, freshwater, land and marine 4 Emissions reduction targets set for 2020, 2030 and 2050
3 Infrastructure planning	<ol style="list-style-type: none"> 1 National Infrastructure Plan (2010) – periodic plans required for the management and planning of public infrastructure (under the control of central government) over a 30-year horizon, with annual national state of infrastructure reports prepared by the National Infrastructure Unit (within the Treasury) 2 Ten-year Capital Intentions Plan (2011) – periodic plans for public infrastructure development to match the planning responsibilities of local government (see below) 3 Land transport investment strategy (2013) – requirement under the Land Transport Management Act 2003 for the Minister of Transport to produce at least every six years a strategy for the country’s land transport that looks out 10 years
4 Public sector management	<ol style="list-style-type: none"> 1 Legal requirements for the preparation of sector-specific long-term strategies in some policy areas (e.g., tertiary education) 2 Public Finance Amendment Act 2013 – legal requirement for government departments to provide information periodically on their strategic intentions 3 State Sector Amendment Act 2013 – legal requirement for departmental chief executives to exercise stewardship responsibilities 4 Investment-intensive government departments and agencies have been required by Cabinet since 2015 to prepare long-term investment plans
5 Emergency management and disaster preparedness	<ol style="list-style-type: none"> 1 Earthquake Commission and a national disaster fund, initially established in 1945 to provide insurance for residential property but modified significantly during the late 20th century to enhance the resources available in the event of major natural disasters, such as the Canterbury earthquakes (2010–11)
6 Social policy	<ol style="list-style-type: none"> 1 Accident compensation scheme – initially established as a ‘pay-as-you-go’ scheme in the early 1970s but has gradually evolved since 1999 towards a ‘fully funded’ model whereby sufficient levies are collected to cover the lifetime cost of injuries 2 Welfare reform programme (2013) – a new ‘investment approach’ was adopted based on an actuarial assessment of the forward liabilities of various welfare benefits; assessments were used to help guide the allocation of public funds to reduce long-term welfare dependency but not to set benefit rates; the social investment approach has evolved in recent years towards a social wellbeing approach 3 Child Poverty Reduction Act 2018 – requires the Government to set and report on long-term targets for reduction in primary measures of child poverty 4 Children’s Amendment Act 2018 – requires the Government to publish periodic child wellbeing strategies

Policy domain		Examples of specific policy initiatives
7	Planning by subnational government	<ol style="list-style-type: none"> 1 Local Government Act 2002 – made it mandatory for local authorities to prepare periodic long-term plans covering no less than 10 years 2 Local Government Act 2002 Amendment Act 2014 – requires local authorities to prepare 30-year infrastructure strategies that identify significant infrastructure issues and how they will be managed 3 Land Transport Management Act 2003 – requires regional councils (and Auckland Transport) to prepare a regional land transport plan every six years that states the transport priorities for the region for the following 10 years, as well as including a forecast of anticipated revenue and expenditure for the following 10 years 4 Local Government (Auckland Council) Act 2009 – requires New Zealand’s largest city, Auckland, to prepare a spatial plan (known as the ‘Auckland Plan’), looking out 30 years, and a more detailed unitary plan that covers the normal provisions for district and regional planning
8	Independent public institutions to represent future-focused interests	<ol style="list-style-type: none"> 1 Parliamentary Commissioner for the Environment established via legislation in 1986 2 Children’s Commissioner established via legislation in 1989 3 Retirement Commissioner established via legislation in 2001

Source: Updated from J Boston (2017) *Governing for the future: Designing democratic institutions for a better tomorrow*. West Yorkshire: Emerald Publishing Limited, pp 34–35.

Overarching principles – embedding relevant principles in the statutory framework

The concepts of sustainability and stewardship are embedded in several key areas of New Zealand legislation, as are references to future interests and the wellbeing of future generations. These provisions, although general, bring attention to the long-term because they require decision-makers to take account of the future impacts of their decisions and think beyond the three-year electoral cycle.

The principle of sustainability is incorporated into several important Acts. First, the Government is required to adhere to principles of responsible fiscal management as embraced within section 26G(1) of the Public Finance Act 1989. All eight principles relate to fiscal sustainability for the long-term. Several focus on maintaining “prudent levels of total debt” and “achieving and maintaining levels of total net worth” so as to provide a buffer against future adverse events. Section 26G(1)(g), added via an amendment in 2013, specifically states that the Government must be aware of the “likely impact on present and future generations” of its fiscal strategy. The Environment Act 1986 and Resource Management Act 1991 are both concerned with the interests of future generations. They were enacted to ensure that, among other things, the sustainability of natural and physical resources, and the needs of future generations, are considered in the management of these resources.

Stewardship is mentioned fewer times than sustainability in current legislation. Of significance, however, are the stewardship responsibilities in the State Sector Act 1988, as noted in chapter 1. The 2013 amendment to the Act to include the principle of stewardship was a deliberate attempt to enhance the quality of long-term governance. Under the Act, the State Services Commissioner is obligated to promote a “culture of stewardship in the state services” (s 4A), and one of the purposes of the state sector as a whole is to foster a “culture of stewardship” (s 1A(h)). The chief executive of each department and departmental agency is “responsible to the appropriate Minister for ... the stewardship of the department or departmental agency, including of its medium- and long-term sustainability, organisational health, capability, and capacity to offer free and frank advice to successive governments” (32(c)), and for the stewardship of both its assets and liabilities (32(d)(i)) and any legislation administered (32(d)(ii)). In reflecting on the implications of the 2013 amendments, the State Services Commission has argued that good stewardship should include “positioning an agency to meet its medium and long-term objectives and strategies; and ensuring there is appropriate

infrastructure, management systems and succession planning in place to enable it to do so".²⁹ Fostering a culture of stewardship aims to increase an agency's sustainability, decreasing the risk that longer-term strategies and objectives are overlooked, and to ensure prudent administration of public resources.

Several other statutes refer to 'future generations', 'future interests' and 'future needs', including the Local Government Act 2002, Resource Management Act 1991, Conservation Act 1987, Climate Change Response Act 2002, Hazardous Substances and New Organisms Act 1996 and the Energy Efficiency and Conservation Act 2000 (see appendix 6). The Local Government Act has a particularly strong focus on the long term, frequently referring to the 'future needs' and 'future wellbeing' of communities. It also mentions both stewardship and sustainable development. The Act's purpose (which at the time of writing was being reviewed by Parliament) "provides for local authorities to play a broad role in meeting the current and future needs of their communities for good-quality local infrastructure, local public services, and performance of regulatory functions" (s 3(d)). 'Good quality' is defined as "appropriate to present and anticipated future circumstances" (s 10(2)(c)). Decisions by local authorities should consider "the interests of future as well as current communities ... A local authority should ensure prudent stewardship ... of its resources ... including by planning effectively for the future management of its assets; and in taking a sustainable development approach ... should take into account ... the reasonably foreseeable needs of future generations" (s 14(1)(c), (g),(h)). Additionally, a large proportion of the Acts that refer to 'future generations' and 'future needs' are those involving the settlement of claims under the Treaty, underscoring the high value placed on future generations in Te Ao Māori (as noted earlier).

Despite the incorporation of many future-focused principles and values into legislation, the extent to which they actually influence decision-making, including intertemporal policy choices, is less certain. Several future-focused policies have been implemented in recent years, such as four-year plans and the stewardship provisions in the State Sector Act. From feedback received in the course of preparing this report, however, the stewardship provisions appear to have gained little traction across the public sector. It is now six years since the relevant amending legislation was enacted and there is still no detailed analysis available on what the new stewardship provisions mean, how they have been implemented and what difference they have made to departmental performance. This deficiency needs to be rectified.

Furthermore, the incorporation into legislation of other important principles relating to prudent long-term governance, such as principles of intergenerational justice and use of the precautionary approach, is minimal. Intergenerational justice, fairness and equity are not mentioned, and only two references to the word 'intergenerational' can be found in current legislation, with both being in Acts relating to Treaty settlements. Of course, the term 'future generations' can be seen to be related to intergenerational justice. However, these brief mentions are not followed by any substantive requirements for the Government to report, for instance, on whether its policies align with principles of intergenerational justice (or what the relevant principles are) or to publish data regarding policy issues with intergenerational dimensions.

In relation to the precautionary principle and the precautionary approach, only seven Acts currently mention the word 'precautionary'. Three relate to the Waikato River. Of the other four, the Hazardous Substances and New Organisms Act 1996 and Civil Defence Emergency Management Act 2002 each contain a section on taking a precautionary approach, while the Psychoactive Substances Act 2013 and Biosecurity Act 1993 mention the need for various authorities to act on a 'precautionary basis' or to take 'precautionary actions'.

Long-term planning processes and strategic foresight

As highlighted in table 3.2, governments have many legislative requirements – at both the national and subnational levels – to undertake long-term planning. For instance, the Local Government Act requires all local authorities to prepare and publish long-term plans (LTPs) every three years. These plans must look ahead a minimum of 10 years. An amendment to the Act in 2014 (s 101B) imposes an obligation for these LTPs to include an infrastructure strategy that covers at least 30 years. All LTPs are subject to a public submissions process as well as robust auditing by the Office of the Auditor-General.

²⁹State Services Commission (2015) State Sector Act 1988: Explanation of amendments in 2013, p 7. <https://www.ssc.govt.nz/sites/all/files/statesectoract2013amendments.pdf>

Government departments are required to plan a minimum of four years ahead. Under section 38 of the Public Finance Act, they must provide information to the public and the House on their strategic intentions for the forthcoming four financial years.³⁰ Information on strategic intentions must “set out the strategic objectives that the department intends to achieve or contribute to” and must also “explain the nature and scope of the department’s functions and intended operations; and ... explain how the department intends to manage its functions and operations to meet its strategic intentions” (s 40). This provision in the Act replaced an earlier provision relating to information on future operating intentions, which had a shorter timeframe of three years. Additionally, before May 2018, departments were required by the Cabinet to have in place a four-year plan (4YP).³¹ This requirement is currently under review by the Treasury as part of an assessment of strategic planning and reporting by the public sector (see chapter 4). The 4YP was an integrated agency plan, explaining what interventions (e.g., activities, policy advice, services and funding) would be delivered to meet the department’s strategic objectives, as well as how the department would manage its resources to implement the interventions.³²

Investment-intensive agencies must, in addition to information on strategic intentions, have in place an up-to-date long-term investment plan (LTIP) covering at least 10 years.³³ Currently, 25 departments and agencies are classified as investment intensive, including the Ministry of Education, Department of Corrections, New Zealand Transport Agency and eight district health boards.³⁴

LTIPs are intended “to give effect to Cabinet’s intention that there is active stewardship of public resources, and strong alignment between individual investments and the government’s long-term priorities”.³⁵ They differ from 4YPs in that they allow the agency to consider multiple futures as well as investment scenarios that may require additional funding. Methods of foresight are typically used when formulating an LTIP, particularly forecasting, back-casting and scenario planning.³⁶

The current legislative framework imposes obligations on governments to ensure New Zealand’s long-term fiscal sustainability, and generate information and analysis to enable effective planning. Under the Public Finance Act (s 26N–26NA), the Treasury is required to produce at least four yearly a statement on the long-term fiscal position (SLTFP) and an investment statement. The SLTFP must have at least a 40-year outlook. *He Tirohanga Mokopuna*, the most recent statement, looks out to 2060 and drew on the Treasury’s *Living Standards Framework* (LSF) to frame the report. The statement focuses on economic growth, employment and skills, social inclusion and natural resources over the projected timeframe.³⁷ The investment statement must describe the value of the Crown’s significant assets and liabilities and how this has changed over time, and must forecast how these assets and liabilities are “expected to change in value in each of at least the next 2 financial years after the financial year in which the investment statement is presented” (s 26NA(d)). While not legally required to look beyond two years, the Treasury has the scope to analyse further into the future. For instance, the 2018 Investment Statement, *He Puna Hao Pātiki*, provides forecasts up until 2022.³⁸

While all levels of government currently have planning processes, only limited use is made of specific foresight techniques to explore possible future trends, opportunities and risks. Strategic foresight is “the ability to create and maintain a high-quality, coherent and functional forward view and to use the insights

³⁰ Treasury, *Public Finance Act: Strategic intentions guidance*, above n 28.

³¹ State Services Commission (2017) *Four year plan guide*. <http://www.ssc.govt.nz/sites/all/files/Four%20Year%20Plan%20Guide%20-%202018.pdf>

³² Ibid.

³³ Cabinet Office (2015) *Investment management and asset performance in the state services*. CO (15) 5. <https://dpmc.govt.nz/publications/co-15-5-investment-management-and-asset-performance-state-services>

³⁴ Treasury (2017) *Investment intensive agencies*. <https://treasury.govt.nz/information-and-services/state-sector-leadership/collaboration-initiatives/investment-management-system/review-investment-reviews/investment-intensive-agencies>

³⁵ Treasury (2017) *Guidance for developing and maintaining a long-term investment plan (LTIP)*, p 3. <https://treasury.govt.nz/sites/default/files/2018-01/investmentmanagement-ltip-guidance.pdf>

³⁶ Ibid.

³⁷ Treasury (2016) *He tirohanga mokopuna: 2016 statement on the long-term fiscal position*. <https://treasury.govt.nz/sites/default/files/2016-11/ltps-16-htm.pdf>

³⁸ Treasury (2018) *He puna hao pātiki: 2018 investment statement – investing for wellbeing*. <https://treasury.govt.nz/sites/default/files/2018-03/is18-hphp-wellbeing.pdf>

arising in organizationally useful ways”.³⁹ Common foresight techniques include environmental and horizon scanning, scenario planning and back-casting. Individual agencies use these to varying extents. For example, the Inland Revenue Department (IRD) has had in place *The Strategic Futures Work Programme* (Te Kāhu Mataroa) for over four years, which “encourages a long-term view using a repeatable, fit-for-purpose futures scanning process”.⁴⁰ The Ministry of Transport has also placed a strong focus on futures thinking and has conducted several projects on the future of various modes of travel. For example, in 2014, it produced a report *Future Demand: New Zealand Transport and Society: Scenarios to 2042*. This considered four possible future scenarios for New Zealand transport and how the country could shape, and be affected by, these divergent futures.⁴¹

Yet despite several departments incorporating foresight into the formulation of policy advice, a notable gap exists in the public sector as a whole. There is no agency or unit with a responsibility to lead or coordinate the foresight activities of departments and agencies, to undertake foresight projects on major, cross-sectoral, long-term policy issues, and to assess the possible impacts of new and emerging technologies. The Strategic Futures Group (SFG), led from IRD, is the only forum where government agencies discuss long-term issues.⁴² Established in 2017 out of a desire to embed futures thinking tools and techniques into the Government’s policy development processes, the SFG is useful in the sense that it provides a cross-agency platform for public officials to discuss, learn about and enhance their foresight skills. However, expertise and experience is limited in the public sector on the use of foresight techniques, and the lack of a formal mandate for such a group means the SFG only remains in existence because of its members’ shared belief in the importance of foresight in policy development. The absence of a central coordinating unit at the heart of the public sector that contains the relevant expertise and resources for such activities appears to be at odds with a public sector that is legally mandated to value and exercise stewardship.

Long-term targets, performance measures and periodic reporting

As in other jurisdictions, New Zealand governments frequently announce strategies or set targets, some of which are long-term in nature. For instance, with respect to the environment, emissions reduction targets are currently set for 2020, 2030 and 2050.⁴³ Progress towards meeting such targets is reported annually. The reduction targets for 2030 and 2050 may change, depending on the fate of the Government’s proposed climate change legislation (see chapter 4). As a party to the UNFCCC, New Zealand also produces and submits to the UNFCCC mandatory reports, the most recent being the *Seventh National Communication* and the *Third Biennial Report*.⁴⁴

As mentioned, fiscal sustainability remains an important objective of New Zealand governments. The current Labour–New Zealand First government has adopted a set of budget responsibility rules.⁴⁵ The five rules refer either directly or indirectly to fiscal sustainability. For instance, the first rule is to “deliver a sustainable operating surplus across an economic cycle”, the second is to “reduce the level of Net Core Crown Debt to 20% of GDP [gross domestic product] within five years of taking office”, and the third is to “prioritise investments to address the long-term financial and sustainability challenges facing New Zealand”.⁴⁶

³⁹ RA Slaughter (1997) *Developing and applying strategic foresight*, p 1. <https://pdfs.semanticscholar.org/b5f9/80009dcb5ba0e3f6920ff947c9878d164d3b.pdf>

⁴⁰ Department of the Prime Minister and Cabinet (2018) *Protecting the interests of future generations, and foresight*, p 9. https://dpmc.govt.nz/sites/default/files/2018-06/Future%20Generations%20tracker%20FINAL_1.pdf

⁴¹ Ministry of Transport (2014) *Future demand: New Zealand transport and society: Scenarios to 2042*. <https://www.transport.govt.nz/assets/Uploads/Our-Work/Documents/fd-scenarios-for-2042.pdf>

⁴² For an overview of futures thinking initiatives that have existed in New Zealand, including in the public sector, see M Menzies (2018) A partial history of futures thinking in New Zealand. *Policy Quarterly* 14(1): 18–26 and McGuinness Institute (2011) *A history of future-thinking initiatives in New Zealand, 1936–2010: Learning from the past to build a better future*. <http://www.mcguinnessinstitute.org/wp-content/uploads/2016/08/20140724-Report-11-web.pdf>

⁴³ Ministry for the Environment (2018) *About New Zealand’s emissions reduction targets*. <https://www.mfe.govt.nz/climate-change/what-government-doing/emissions-reduction-targets/about-our-emissions-reduction>

⁴⁴ Ministry for the Environment (2017) *Progress towards our international climate-change commitments*. <https://www.mfe.govt.nz/climate-change/what-government-doing/progress-towards-our-international-climate-change-commitments>

⁴⁵ See Treasury (2018) *Budget responsibility rules 2018*. <https://treasury.govt.nz/publications/information-release/budget-responsibility-rules-2018-html>

⁴⁶ Ibid.

But while stressing the importance of fiscal sustainability, the current government has also embraced a ‘wellbeing approach’, drawing heavily on the Treasury’s LSF.⁴⁷ On 30 May 2019, it announced the first ‘Wellbeing Budget’, which was developed drawing upon a wellbeing approach to determine budget priorities.⁴⁸ Additionally, as part of the effort to embed the goal of wellbeing in the policy process, the Treasury has created the Living Standards Framework Dashboard (LSF Dashboard).⁴⁹ This interactive tool, based on the LSF, displays New Zealand’s current performance in comparison to Organisation for Economic Co-operation and Development data across a range of current and future wellbeing indicators. Both the LSF and LSF Dashboard were developed to better inform the Treasury’s economic and fiscal policy advice. In particular, the LSF Dashboard will be used to monitor how budgetary decisions are improving New Zealanders’ wellbeing.⁵⁰ The LSF Dashboard subsection – ‘Our future’ – displays indicators of New Zealand’s stocks of financial and physical, human, social and natural capitals (which underpin the LSF) and explains that these resources are vital for the sustainability of wellbeing and thus must be monitored. While the usefulness and durability of the LSF Dashboard remain uncertain, its creation shows the Government’s commitment to take a broader, intergenerational approach to wellbeing and to being transparent in monitoring performance.

Other current governmental targets and strategies include: Predator Free 2050; Smokefree 2025; the Government ICT Strategy (which is currently being revisited and will become the digital government strategy); the New Zealand Health Strategy, which sets out the health sector’s strategic direction for the years 2016 to 2026; the Tertiary Education Strategy (2014–19) and the Strategic Defence Policy Statement.⁵¹ A child and youth wellbeing strategy is due to be published in July.

Despite the above, several significant gaps exist regarding the scope, measurement, reporting and enforcement of long-term targets. This includes the limited nature of any legislative requirements for the setting of targets. In addition, no legislative requirements are in place for governments to meet their international obligations (including those with respect to the Paris Agreement and the SDGs). Nor are government departments legally obliged to report on how they are fulfilling their stewardship responsibilities. Several of these omissions are in the process of being addressed. For instance, the recently enacted Child Poverty Reduction Act 2018 requires the Government to set a series of child poverty reduction targets and report annually on progress. The current long-term targets, which entail at least halving recent rates of child poverty by 2028, are consistent with those in the SDGs.

Independent public representation of future interests

As in many comparable jurisdictions, New Zealand has established a range of public institutions, some of which have a mandate to represent and protect long-term interests. Such institutions include several Officers of Parliament (which are considered in chapter 5) and independent Crown entities (ICEs) whose functions include inquiring into issues that affect future wellbeing. The Office of the Children’s Commissioner is one such entity. An important role of the Commissioner is to advocate for the wellbeing of children and young people. Similarly, the Retirement Commissioner is responsible for leading the National Strategy for Financial Capability and for scrutinising government retirement income policies; both roles have obvious implications for long-term wellbeing.⁵² Another notable ICE is the Productivity Commission, which has a mandate to advise the Government on ways to improve the nation’s productivity in order to maximise wellbeing.⁵³

⁴⁷ Treasury (2018) *Budget policy statement 2019*. <https://treasury.govt.nz/sites/default/files/2018-12/bps-2019.pdf>

⁴⁸ Ibid.

⁴⁹ Treasury (2018) *Living standards framework – Dashboard*. <https://nztreasury.shinyapps.io/lfsdashboard>

⁵⁰ Treasury, *Budget policy statement 2019*, above n 47.

⁵¹ See Department of Conservation (nd) *Predator free 2050*. <https://www.doc.govt.nz/nature/pests-and-threats/predator-free-2050/>; Digital.govt.nz (2018) *Strategy*. <https://www.digital.govt.nz/digital-government/strategy/>; Ministry of Health (2016) *New Zealand health strategy: Future direction*. <https://www.health.govt.nz/system/files/documents/publications/new-zealand-health-strategy-futuredirection-2016-apr16.pdf>; and New Zealand Defence Force (2018) *Strategic defence policy statement 2018*. <http://www.nzdf.mil.nz/downloads/pdf/public-docs/2018/strategic-defence-policy-statement-2018.pdf>

⁵² Commission for Financial Capability (2018) *About: Retirement commissioner*. <https://www.cffc.org.nz/about/retirement-commissioner>

⁵³ See New Zealand Productivity Commission (nd) *The commission*. <https://www.productivity.govt.nz/about-us/the-commission>

Resilience, risk reduction and emergency management

Effective national risk management is a crucial component of long-term, anticipatory governance. It helps build resilience into the national security system, which limits the negative impacts of adverse events, such as natural disasters or economic crises. Ultimately, it protects intergenerational wellbeing through safeguarding the stocks and flows of financial, human, natural and social capital. New Zealand manages its national risks through its national security system, which consists of government agencies working together to manage national security arrangements.⁵⁴ Underpinning the National Security System is legislation, such as the Civil Defence Emergency Management Act 2002 and sections of the Building Act 2004, Resource Management Act 1991 and Intelligence and Security Act 2017, and several relevant strategies and policies, such as the Strategic Defence Policy Statement 2018.⁵⁵ A new national disaster resilience strategy replaced the previous national civil defence emergency management strategy when it expired in April 2019.⁵⁶ At the time of writing, *The New Zealand National Risk Report*, completed in October 2018, was still awaiting publication.

In 2015 New Zealand, along with 186 other UN Member States, adopted the Sendai Framework for Disaster Risk Reduction. This 15-year voluntary agreement aims to achieve a “substantial reduction of disaster risk and losses in lives, livelihoods and health and in the economic, physical, social, cultural and environmental assets of persons, businesses, communities and countries”.⁵⁷ While non-binding, New Zealand is committed to implementing the framework, including following its 13 guiding principles and taking action in four priority areas.⁵⁸

Summary

The discussion above has reviewed some of the main statutory provisions and policies that require governments and public agencies to plan for the future and protect (or at least consider) long-term interests. As will be evident, the current regulatory and policy frameworks have both strengths and weaknesses. Certain kinds of long-term interests (e.g., fiscal) appear to be better safeguarded than others (e.g., environmental); targets and milestones are in place for some important long-term goals but not for others; government departments are required to exercise various stewardship responsibilities but have little guidance on what precisely these mean and almost no monitoring or reporting of progress; the Government has endorsed the SDGs but has yet to report to the UN on its strategy for implementation; foresight techniques are applied sporadically within the public sector but without any central oversight or coordination; relatively little analysis is undertaken within the public sector of the implications of major technological innovations; and so forth. What is also evident is that parliamentary scrutiny of issues relating to long-term governance and stewardship is at best ‘patchy’. No select committee, for instance, has undertaken an inquiry into the quality of New Zealand’s long-term governance or explored how such matters might be properly assessed. There is, in short, no parliamentary equivalent of this chapter.

⁵⁴ The National Security Council, chaired by the prime minister, is at the head of the system. The council oversees the national security and intelligence sector, and coordinates national responses to threats to national security. Also involved are the Officials’ Committee for Domestic and External Security Coordination (ODESC) and Watch Groups, comprising chief executives and senior officials, respectively, from relevant agencies. See Office of the Auditor-General (2016) *Governance of the national security system*. Wellington.

⁵⁵ New Zealand Defence Force, *Strategic defence policy statement 2018*, above n 51.

⁵⁶ Ministry of Civil Defence and Emergency Management (2019) *National disaster resilience strategy: Rautaki ā-Motu Manawaroa Aituā*. <https://www.civildefence.govt.nz/assets/Uploads/publications/National-Disaster-Resilience-Strategy/National-Disaster-Resilience-Strategy-10-April-2019.pdf>

⁵⁷ United Nations (2015) *Sendai framework for disaster risk reduction 2015–2030*, p 12. https://www.unisdr.org/files/43291_sendaiframeworkfordrren.pdf

⁵⁸ The four priority areas are: 1) understanding disaster risk; 2) strengthening disaster risk governance to manage disaster risk; 3) investing in disaster risk reduction for resilience; 4) enhancing disaster preparedness for effective response and to ‘Build Back Better’ in recovery, rehabilitation and reconstruction – see United Nations, *ibid*, p 14.

Conclusion

This chapter has discussed the rationale and criteria for assessing long-term governance and stewardship. It began by outlining widely agreed moral reasons for safeguarding long-term interests, noting the crucial role of governments in serving as a kaitiaki, or guardian, of future generations. It is readily acknowledged that the task of sound long-term governance is challenging. Partly, this is because of the powerful political pressures for policy-makers to favour short-term over long-term interests, and partly, it is the product of deep uncertainty and policy complexity. But it also reflects that there are competing long-term interests. Hence, in many cases, there is scope for reasonable disagreement about which particular interests should be prioritised and by what means.

Having considered such matters, the chapter outlined possible criteria for assessing the quality of long-term governance, drawing in particular on the concept and attributes of anticipatory governance. Based on this discussion, the chapter examined the ways in which, and extent to which, the relevant attributes are reflected in New Zealand's current regulatory and policy-making frameworks. The picture that emerges is mixed. In some policy domains strong commitment devices are in place to safeguard future interests; in others policy settings appear to be rather less satisfactory.

At the same time, policy-makers are mindful of current deficiencies, including the continuing risk of short-termist decision-making, and are exploring and proposing various policy reforms to improve New Zealand's long-term governance. Some of these reforms are canvassed in chapter 4.

Chapter 4: The evolving policy context and the implications for parliamentary scrutiny of long-term governance

Introduction

Parliament's ability to scrutinise long-term governance depends on at least two conditions: first, the availability of a wide range of high-quality information (e.g., in relation to the performance of public agencies and their planning for the future); and, second, the capacity to interpret, assess and make good use of this information – supported, as necessary, by excellent data analysis and robust, independent advice. The public management reforms of the 1980s and early 1990s – including the Official Information Act 1982, the State-Owned Enterprises Act 1986, the State Sector Act 1988, the Public Finance Act 1989 and the Fiscal Responsibility Act 1994 – generally improved the depth and breadth of the information reported by government departments and agencies, especially in relation to their financial performance. Since then, other policy initiatives – such as the Local Government Act 2002, the Crown Entities Act 2004 and the Environmental Reporting Act 2015, together with requirements for the Treasury to prepare periodic Long-term Fiscal Statements and Investment Statements – have further enhanced the range of performance information to which parliamentarians have access.

Having stated this, most of the information reported by the government and its agencies is retrospective rather than prospective. Currently ministers are not required to produce a *Future Trends Report* (as, for instance, in Wales) or a *Report on the Future* (as, for instance, in Finland) (see chapter 6). Similarly, no legislation requires governments to produce various kinds of 'green budgeting' data (e.g., statements, baseline analyses, benchmarks and balance sheets).¹ For instance, governments have no statutory obligations to measure or assess trends in 'comprehensive wealth' or 'aggregate wealth'. Undertaking such an assessment would entail developing a comprehensive *national* balance sheet, not merely a Crown balance sheet. This approach would take into account changes in the quantity, quality and value of the different types of capital stocks (i.e., financial, manufactured, human, social and natural) that are fundamental to citizens' long-term wellbeing. Of course, any attempt to generate such a balance sheet would be conceptually and methodologically challenging.² Without such information, however, one of the vital ingredients for assessing the quality of long-term governance and stewardship will remain absent.

Other forms of evidence relevant to assessing the long-term performance of the government and its numerous entities are also limited or absent. As noted in chapter 3, although the 2013 amendments to the State Sector Act require government departments to exercise various stewardship responsibilities, little information is available on how these responsibilities are being fulfilled. Similarly, the government's overall reporting framework contains significant gaps. For instance, the Environmental Reporting Act has no equivalent in the social policy arena. Moreover, even the Environmental Reporting Act is open to criticism on the grounds that it does not require the provision of forward-looking information or analysis relating to emerging, looming or cascading risks, assessments of environmental resilience, and the implications of long-term environmental trends.³

Against this, policy initiatives are under way to enhance the quality of the performance information available to Parliament, including for long-term matters. Some of these initiatives may also improve the capacity of parliamentarians to interpret, assess and make effective use of this information. This chapter briefly summarises the current reform proposals.

¹ See, for instance, M Petrie (2018) Reversing the degradation of New Zealand's environment through greater government transparency and accountability. *Policy Quarterly* 14(2): 32–39; OECD (2018) *Green budgeting: A primer*. Paris: OECD.

² See, for instance, J Boston (2017) *Governing for the future: Designing democratic institutions for a better tomorrow*. Bingley: Emerald, pp 358–368; K Hamilton & C Hepburn (2014) Wealth. *Oxford Review of Economic Policy* 30(1): 1–20.

³ Petrie, Reversing the degradation of New Zealand's environment, above n 1.

Several caveats, however, need mention. First, at the time of writing, the precise details of some of the likely policy changes were uncertain. Second, until such details are clarified, their implications for Parliament, and especially its scrutiny functions, cannot be fully assessed. Third, additional changes are certainly possible over the coming years in important areas of public policy (e.g., climate change). Some of these are bound to affect the nature and context of parliamentary oversight, including its scrutiny of long-term matters.

A wellbeing approach and reforms to the Public Finance Act

As noted in chapter 3, the Labour–New Zealand First Government has adopted a ‘wellbeing approach’ to policy-making.⁴ This approach draws heavily on the Treasury’s *Living Standards Framework* (LSF) and related conceptual and policy developments internationally, such as the Organisation for Economic Co-operation and Development’s Better Life Index and the United Nations’ Sustainable Development Goals. It is based on the assumption that the quality of life cannot be captured solely by *economic* indicators (whether macro or micro) and that while citizens value their consumption levels, many other aspects of life matter too. Accordingly, the Government is seeking to broaden the range of measures used to assess the nation’s performance and to rely less heavily on economic indicators, such as economic growth. This means evaluating trends in, and placing greater weight on, such areas as health status, housing affordability, educational achievement, environmental degradation, societal trust, and the distribution of wellbeing across different groups and over time. As a result, considerable work has been undertaken on developing a robust measurement framework and evidence base for assessing wellbeing.⁵

In line with the LSF, less weight is being placed on the flow of goods and services (as captured, for instance, by gross domestic product) and more weight on stocks of capital. Stocks are important, not least because of their implications for intergenerational wellbeing. If vital stocks are being depleted in order to protect current consumption levels, then future consumption is likely to be put at risk. By placing more emphasis on stocks, the new approach has the potential to enhance the quality of long-term governance, along with the scrutiny of such matters.

The wellbeing approach is being applied in various ways. At a broad level, it has been employed to inform the 2019 budgetary process (and hence decisions on prioritising public expenditure). It is also being applied in specific policy domains and in relation to designated population groups, such as children and youth. Separately, the Local Government Act is being amended to again include the ‘four wellbeings’ – economic, social, cultural and environmental.

Importantly, too, the Government issued a consultation document in September 2018 outlining a proposal to amend the Public Finance Act with the aim of embedding a wellbeing approach within the Government’s financial management and reporting system.⁶ Under the Government’s proposal, future governments would be required to outline their specific wellbeing objectives, together with their fiscal goals, in budget documents. Meanwhile, the Treasury would be required to report performance annually based on selected wellbeing indicators, thereby enabling trends in various societal outcomes to be tracked over the long term. Under the proposal, governments would be at liberty to select their own wellbeing objectives and apply them as deemed appropriate. It remains to be seen whether (and in what ways) the Public Finance Act will be amended, how the new approach will affect specific policy settings and outcomes, how it will evolve over time and whether it will be enduring.

In the meantime, the wellbeing approach will generate a range of additional performance information, thus enhancing Parliament’s ability to scrutinise the executive. Some of this information will be particularly relevant for assessing the extent to which government departments are fulfilling their stewardship

⁴ See, for instance, S Little (2018) Taking a stewardship approach to the public finance system. Presentation at Victoria University of Wellington, 4 December; Hon Grant Robertson (2018) Speech to the opening of the Third International Conference on Well-being and Public Policy, Wellington, 5 September; Hon Grant Robertson (2019) Applying a wellbeing approach to the public financing system. Speech to the Institute of Public Administration New Zealand, 21 February; Treasury (2018) *Embedding wellbeing in the Public Finance Act 1989*. Wellington: Treasury; D Weijers & P Morrison (2018) Wellbeing and public policy: Can New Zealand be a leading light for the wellbeing approach? *Policy Quarterly* 14(4): 3–12.

⁵ See *Indicators Aotearoa New Zealand* and the Treasury’s *Living Standards Framework Dashboard*.

⁶ Treasury (2018) *Embedding wellbeing in the Public Finance Act 1989*, above n 4.

responsibilities and in determining whether future interests are being properly protected. It will be important in due course for Parliament to examine the implementation and impact of the wellbeing approach. Equally, Parliament will need to review its scrutiny processes and procedures to ensure that it makes good use of the additional information generated and, hence, of the opportunity for better oversight.

Aside from possible changes to the Public Finance Act to reflect the new wellbeing approach, the Treasury is reviewing other aspects of the current public sector financial management system that are seen as problematic.⁷ One concern, for instance, is that current policy settings, such as the system of annual appropriations and four-year fixed nominal baselines, tend to “incentivise a focus on the short-term with the risk that longer-term planning and capability building are deferred”.⁸ Similarly, barriers currently operate against moving agency funding across outputs or between years even when it would be more efficient and effective to do so. Existing financial management systems also encourage a focus on compliance and an aversion to risk, thus reducing the incentives for innovation and sound asset management. To compound matters, incentives for policy evaluation are weak, and the way information on agency performance is provided to Parliament does not always enhance understanding or enable ready scrutiny. For instance, trend-based data and information on outcomes (as opposed to outputs) are often lacking.

At present, it is uncertain what specific changes will be made to the Public Finance Act as a result of the current review. Almost certainly, however, any reforms will have implications for parliamentary scrutiny. As with the wellbeing approach, it will be important for Parliament to consider whether and how it should adjust its processes and procedures to capitalise on the opportunity for better scrutiny, including scrutiny of long-term governance and stewardship.

State Sector Act reform

The Labour–New Zealand First Government has stated that it is committed to improving the performance of the public service. To this end, in early September 2018 it released a public consultation document, *Reform of the State Sector Act 1988: Directions and options for change*.⁹ The proposed changes are designed to, among other aims, enhance inter-agency coordination, strengthen the leadership of the public service, improve the quality of advice to ministers and enhance the delivery of public services. Of particular relevance to the issue of long-term governance are proposals contained in chapter 8. Specifically, the consultation document proposes the introduction of a new kind of statutory report referred to as ‘long-term insights briefings’. It suggests that such briefings could be developed at a sectoral or cross-departmental level, rather than by individual departments, and would be published during the middle of each parliamentary term or about a year before a general election. In terms of contents, the briefings would comment on key trends, risks and opportunities in the sector and enable groups of departmental chief executives to comment independently on important medium- to long-term issues that required the government’s attention. If such briefings were provided on a sectoral basis, four to six briefings might occur, depending on how the sectors were defined.

Since the publication of the consultation document, officials have been refining their ideas on the proposed briefings, including their authorship, frequency and contents, as well as the process by which they might be developed and signed off. It is recognised that the publication of such documents could expose significant differences between the views of ministers and officials, leading to strained relationships and complicating the provision of free and frank advice.

⁷ Little, Taking a stewardship approach, above n 4

⁸ Ibid.

⁹ State Services Commission (2018) *Reform of the State Sector Act 1988: Directions and options for change*. Wellington: State Services Commission.

The public sector could use other ways to provide better-quality information about important long-term trends, risks and opportunities. One option would be for the State Services Commissioner to publish a periodic report – perhaps referred to as a ‘stewardship report’. This would review the overall performance of the public sector with respect to its principles and values. Such a report could also assess how well the public sector is placed to cope with, and respond to, future demands, pressures, risks and emerging problems. Other options include the publication of periodic resilience reports, national risk reports, assessments of major new technologies and horizon-scanning reports.

If additional forward-looking reports, whether focused on stewardship or related matters, were to be produced regularly, it would be important for Parliament to scrutinise them properly. One possible approach would be for all such documents to be examined by an appropriate select committee (perhaps the Governance and Administration Committee), and to require the Government to respond within a specified time to the committee’s findings. Parliamentarians could be assisted in their examination of such documents by Office of the Auditor-General (OAG) staff and independent experts. There might also be a case for requiring the OAG, via an amendment to the Public Finance Act, to audit these documents as part of the overall scrutiny process.

An independent fiscal institution

As part of its wider reform agenda, the Government announced its intention to establish an independent fiscal institution (IFI). A consultation document outlining the proposal was released by the Treasury in September 2018.¹⁰ The broad aim of the IFI is to improve “fiscal responsibility, accountability and transparency, support public debate, and strengthen Parliamentary scrutiny”. Under the Government’s initial proposal, the IFI would have the functions of:

1. providing financial costings of political party policies, including election manifestos, and any costings requested when a government is formed
2. commenting on and assessing compliance with the Government’s fiscal strategy and fiscal targets
3. commenting on the Treasury economic and fiscal forecasts
4. commenting on long-term fiscal sustainability and key fiscal risks
5. producing relevant and related commentary on fiscal and budgetary matters.

The precise design, functions and size of the IFI remain uncertain. In terms of governance, one option would be for the IFI to be established as an Officer of Parliament, thus guaranteeing a high level of independence. Whatever its ultimate functions and governance arrangements, the IFI has the potential to enhance parliamentary scrutiny of the executive. It is assumed, for instance, that its reports on fiscal matters (but not its costings of party policies) would be presented to the House of Representatives and examined by the Finance and Expenditure Committee. Potentially, too, staff of the IFI could assist various select committees with their inquiries.

Other legislative and non-legislative proposals of relevance to parliamentary scrutiny

Several other current initiatives have the potential to affect parliamentary scrutiny, including oversight of long-term governance. One is legislation to establish a Climate Change Commission and set a long-term target for reducing greenhouse gas emissions. Separately, a new independent infrastructure body – the New Zealand Infrastructure Commission – is being established to improve long-term infrastructure planning.¹¹ Included in the Commission’s functions are “presenting a long-term vision for infrastructure” and “aligning infrastructure decisions with the long-term vision”. Aside from this, the Royal Society of New Zealand Te Apārangi is exploring ways to enhance its contribution to evidence-informed policy-making, including the information and other assistance it provides to parliamentarians.¹²

¹⁰ Treasury (2018) *New Zealand’s fiscal policy framework: Establishing an independent fiscal institution*. Wellington: Treasury.

¹¹ Treasury (2018) *A new independent infrastructure body*. Wellington: Treasury.

¹² B Jeffares, J Boston, J Gerrard, S Hendy & W Lerner (2019) Science advice in New Zealand: Opportunities for development. *Policy Quarterly* 15(2): 62–71.

Additionally, the OAG is currently undertaking two separate, but related, projects that have a direct bearing on parliamentary scrutiny. One focuses on the future of parliamentary accountability. The objective is to raise the profile of public accountability and help the OAG inform and support current public sector reforms. The first phase will review the findings of recent research about public accountability and its likely future shape. The second phase will assess the strengths and weaknesses of the current accountability system and how well it is positioned to meet future challenges and opportunities.

The other OAG project involves a review of its parliamentary products. The aim is to improve the support and advice the OAG provides to Parliament to underpin its role in scrutinising the performance of the public sector. The project will explore with stakeholders what effective parliamentary scrutiny looks like, and how the OAG can best support Parliament to achieve this goal.

Finally, in September 2018 the Seventh Triennial Appropriation Review Committee released its report and recommended significant additional funding for Parliament (see chapter 9). Some of this funding is designed to improve the quality and range of advice available to MPs. To date, however, the main recommendations have not progressed further.

Chapter 5: Assessing parliamentary scrutiny of long-term governance

Introduction

The underlying premise of this report is that New Zealand's House of Representatives (the House) currently does not deliver systematic scrutiny of long-term governance. At the same time, this report recognises that a long-term perspective is sometimes considered in the House's proceedings: members of Parliament (MPs) frequently speak about their hopes or concerns for the nation's outlook, and they may ask questions about how the government's policies are expected to affect longer-term projections. On some occasions, the House and select committees have even taken opportunities to consider future matters through special debates and inquiries. Critically, however, these have tended to be one-off instances, generally reflecting personal or political inclinations of particular MPs or parties at the time.

The focus of this report is rather on the various institutional mechanisms that a parliament can deploy to mitigate the short-term bias inherent in a democracy with a well-contested electoral cycle (see chapter 3). An institutional mechanism is one that is built in as part of the way the legislature operates, with specific procedural triggers, opportunities and support to enable meaningful parliamentary consideration.

This chapter surveys the extent to which the existing procedures of the House contribute to such scrutiny. It begins by defining accountability and scrutiny and discussing the different layers that comprise parliamentary scrutiny. On the basis of that discussion, it then identifies indicators for assessing the parliamentary scrutiny of long-term governance, with the aim of providing a framework for evaluating the House's current scrutiny procedures and ultimately helping compile a suite of proposals for more effective parliamentary mechanisms. Finally the chapter considers the various functions of the House, and the procedures through which they are exercised, to assess the extent to which they provide effective scrutiny of long-term governance.

Chapter 3 discussed possible criteria that parliamentarians and citizens can employ to assess the quality of long-term *governance*. But those measures are not necessarily applicable to evaluating *parliamentary scrutiny*, because the roles of governments and parliaments are essentially different:

The distinct and separate roles of parliament and government need to be well understood. Governments provide services to citizens; parliaments hold government to account by questioning and challenging government actions and policies and making recommendations for change.¹

In relation to long-term governance, the House's role is not to govern for the future, but instead to oversee, and hold the government to account for, the running of the country in the long-term public interest. As discussed in chapter 3, this necessarily includes protecting the interests of future generations.

Accountability and scrutiny

Accountability, in a parliamentary context, is the government's answerability to the House and thus to the public. Its purpose is not just for 'catching people out', although it is important to have control systems that pick up illegal practice or demonstrably poor performance. It is also about instilling an ethos and motivating desirable conduct. So an appropriate accountability framework provides both controls for poor practice and incentives for effective and ethical performance, and ideally does so without resulting in stifling bureaucracy and undue risk-aversion.²

¹ Inter-Parliamentary Union and United Nations Development Programme (2007) *Global Parliamentary Report 2017—Parliamentary oversight: Parliament's power to hold government to account*. Inter-Parliamentary Union and United Nations Development Programme, p 13. www.ipu.org/oversight

² D McGee (2002) *The overseers: Public accounts committees and public spending*. London: Commonwealth Parliamentary Association, pp 10–11.

Parliamentary structures and procedures provide opportunities for accountability to take place. Scrutiny is the process of probing, considering and expressing views about the government’s policy, expenditure and performance. The overall objectives are to promote better governance, maintain public confidence in the country’s administration and ultimately secure the legitimacy of democratic institutions.

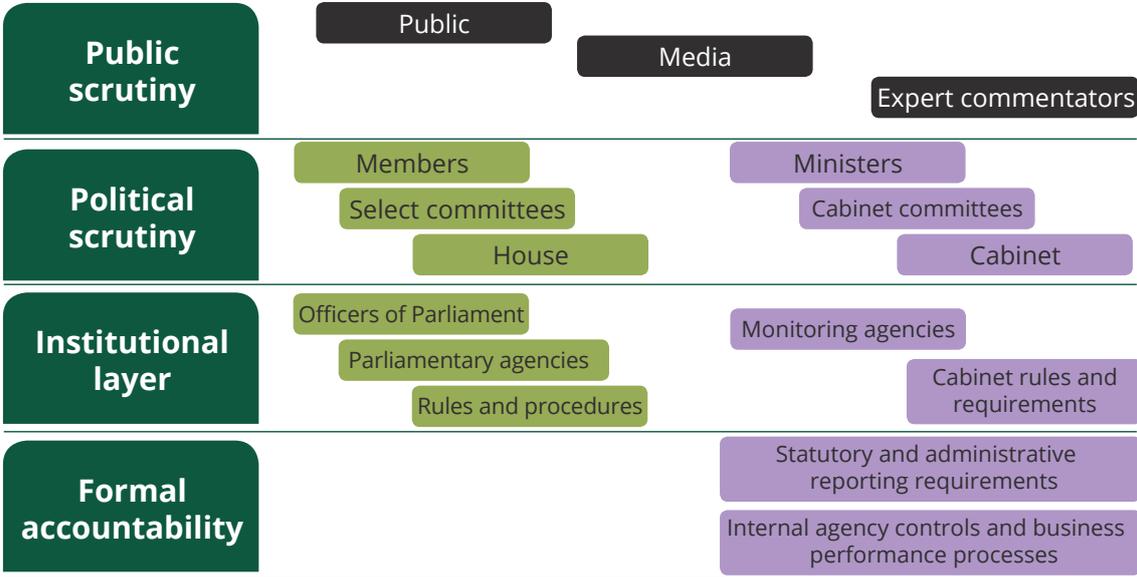
An unbroken tradition of ‘responsible government’ dating back to 1856 marks out New Zealand as one of the world’s long-standing democracies.³ An essential feature of our Westminster-style parliamentary system, responsible government means that the government’s appointment and survival require the support of a majority in the House. The government is accountable to the House as a condition for enjoying its confidence. Our system thus demands that members of the executive – that is, ministers – must also be members of Parliament, and are present in the House and directly answerable to it.

Layers of scrutiny

Participants in the project underpinning this report often expressed concerns, scepticism or downright cynicism about the quality of parliamentary scrutiny in general (see chapter 7). This is a topic that merits vigorous discussion in a broader context than the remit of this project allows. However, this report does tease out the nature of parliamentary scrutiny, which is necessary to assess how long-term governance is scrutinised and then consider options for improving such scrutiny.

Parliament as an institution provides layers of scrutiny, some of which are much more visible than others (see table 5.1). All of these layers are interdependent, and they also overlap and interact with the government’s own scrutiny processes.

Table 5.1: The multiple layers of parliamentary scrutiny



Key: Legislative Executive

³ The General Assembly first met in 1854, but it was not until 1856 that, after consultation with imperial authorities, Governor Gore Browne declared that, in all matters under the control of the Assembly, the Governor should be “guided by the advice of gentlemen responsible to that body”. This was the beginning of responsible government in New Zealand. (Minute dated 15 April 1856, tabled in the House of Representatives in May 1856, *Votes and Proceedings of the House of Representatives*, A.13. See PA Joseph (2014) *Constitutional and administrative law in New Zealand* (4th ed). Wellington: Brookers, para 5.4.)

Political scrutiny

Much of the criticism of parliamentary scrutiny from those interviewed related to the political layer, that is, scrutiny carried out by MPs in select committees and during House procedures. The most visible scrutiny mechanism is question time, the direct questioning of ministers at the start of most sitting days. Many other parliamentary procedures also give rise to frequent political interactions about the quality of ministerial and government activity, as discussed in later sections. The government, too, provides political scrutiny through the relationships between ministers and the agencies for which they are responsible, the consideration of Cabinet committees, and the discussion and decision-making that take place in Cabinet.

One complaint in interviews was that political scrutiny is often superficial or cursory. Participants seek to land blows on each other as they compete for public approval, the focus is on issues that happen to feature in the news cycle at the time, and MPs and committees lack time and capability to delve into matters in sufficient depth. As the scrutineers are political actors, they can have motivations other than a desire to enhance the government's effectiveness, such as improving their career prospects or their party's electoral fortunes. Therefore, the impact of parliamentary scrutiny could in theory be less than is desirable.⁴ Additionally, as discussed in previous chapters, distinct challenges are associated with the scrutiny of long-term governance.

Much political scrutiny takes place below the radar. Occasionally, the dogged pursuit of administrative lapses and policy failures results in headlines, but mostly it does not. Incisive scrutiny relies to a large extent on the sense of duty MPs may feel to perform as guardians of the public interest. It is fair to point to examples of superficial scrutiny, while also acknowledging the efforts of many MPs to conduct effective examinations.

Although often maligned, politically motivated scrutiny has inherent value.⁵ Our democratic setting demands that elected representatives be free to highlight issues according to their worldview. The Westminster system is structured to ensure a constant struggle goes on for influence over the narrative of public life, and this necessitates an emphasis on matters that are seen as politically important. MPs focus their time, attention and efforts according to their political judgement of what is in the interests of the public, their party, the particular communities they represent and care for and, naturally, their own political prospects. In essence, the role of MPs is to exercise political judgement (which includes expressing political opinion).

Any attempt to moderate the political nature of parliamentary life, therefore, would be misguided. Concerns about the effectiveness of political scrutiny should instead address the institutional and formal layers that underpin and support the activities of the political players.

Institutional layer

The quality and extent of political scrutiny largely depend on the capability and capacity provided by the institutional layer. This layer is formed by the mechanisms the House puts in place through its rules and practices, and the logistical and advisory support of the five organisations that belong to the legislative branch.

Officers of Parliament

Three of the organisations in the legislative branch act under the aegis of 'Officers of Parliament', who are statutory officers appointed by the Governor-General on the recommendation of the House. These officers are the:

- Ombudsmen
- Controller and Auditor-General
- Parliamentary Commissioner for the Environment.

⁴ H White (2015) *Parliamentary scrutiny of government*. London: Institute for Government. <https://www.instituteforgovernment.org.uk/sites/default/files/publications/Parliamentary%20scrutiny%20briefing%20note%20final.pdf>

⁵ M Prebble (2010) *With respect: Parliamentarians, officials and judges too*. Wellington: Institute of Policy Studies.

As Officers of Parliament, their primary purpose is to act “as a check on the Executive, as part of Parliament’s constitutional role of ensuring accountability of the Executive”.⁶ They discharge functions that “the House itself might appropriately undertake”.⁷ Other agencies that operate on an independent basis, but whose core functions are executive (e.g., Electoral Commission) or quasi-judicial (e.g., Independent Police Conduct Authority), should not be housed within the legislative branch.

In other words, the Officers of Parliament scrutinise the government on the House’s behalf. They provide a strong institutional basis for parliamentary scrutiny.

For example, the Controller and Auditor-General’s overall purpose is “to help Parliament to maintain the financial integrity of our system of government”.⁸ A key activity is to report “to the House on whether public entities carry out and account for their activities in a manner consistent with Parliament’s intentions”.⁹ In exercising the ‘Controller’ function, the Controller and Auditor-General ensures that Parliament maintains its control of public expenditure by checking that payments out of Crown bank accounts are in accord with appropriations and other laws passed by Parliament, and can even direct that payments be stopped.¹⁰ But the Office of the Auditor-General (OAG) is also engaged in the House’s detailed scrutiny work by providing advice to select committees, most frequently in the context of the House’s regular financial cycle of Estimates and annual reviews.¹¹ The support and advice that Officers of Parliament provide to the House are discussed further below.

This advisory support for the House is very important, but the role of Officers of Parliament goes beyond this: the government is accountable to the Officers of Parliament directly. Each Officer of Parliament can initiate investigations or inquiries on their own initiative, according to a work plan or in response to matters brought to their attention. They can receive complaints or concerns about government activities directly from members of the public; resolving such complaints is an important element of the work of the Ombudsmen in particular, while the OAG and the Parliamentary Commissioner for the Environment follow up on issues raised by the public as their priorities and resources allow.

Major reports of Officers of Parliament are presented to the House in the first instance, and consequently are considered by select committees, but they also are intended for public information and can receive a high level of media interest. Their reports often contain recommendations for administrative improvement that are addressed directly to the government or to particular agencies or authorities.¹² This answerability is strengthened by the formal information-gathering powers accorded by law to the Officers of Parliament. All of the Officers of Parliament also have separate statutory functions that go beyond the scrutiny they undertake on the House’s behalf.¹³

Regardless of opinions about the quality of political scrutiny, and the extent to which it should be further bolstered by the Officers of Parliament, it must be recognised that the Officers of Parliament themselves carry out scrutiny for the legislative branch.

⁶ Finance and Expenditure Committee (1989) *Report on the Inquiry into Officers of Parliament*. AJHR [1987–1990] I.4B, p 5.

⁷ *Ibid.*

⁸ Officers of Parliament Committee (2016) *Code of practice for the provision of assistance by the Auditor-General to the House, select committees, and members of Parliament*. AJHR [2014–2017] I.15C, pp 4–5.

⁹ *Ibid.*

¹⁰ Public Finance Act 1989, ss 65Y–65ZA.

¹¹ Officers of Parliament Committee, Code of practice, above n 8.

¹² Select committee consideration of these reports is discussed later in this chapter.

¹³ Among other functions, the Ombudsmen review decisions about access to information under Part 5 of the Official Information Act 1982, and have functions under the Protected Disclosures Act 2000; the Parliamentary Commissioner for the Environment is an ‘appropriate authority’ under the Protected Disclosures Act 2000, and may report under the Environmental Reporting Act 2015; and the Controller and Auditor-General audits a very broad class of public entities (including local authorities) that goes beyond the scrutiny of the executive branch on the House’s behalf, and is also an ‘appropriate authority’ for protected disclosure purposes.

Office of the Clerk and Parliamentary Service

The Office of the Clerk of the House of Representatives (OOC) and the Parliamentary Service are the other two agencies that belong to the legislative branch, and both of them support parliamentary scrutiny. The OOC is the House's secretariat, facilitating its sittings and committee meetings, recording and publicising its proceedings, and supporting the consideration of its business. The Clerk is the House's principal permanent officer and advisor on parliamentary procedure, as well as on the law and its application to the parliamentary setting; the Clerk is also the Office's chief executive. Part of the Clerk's advisory role is to assist the consideration of how the House can evolve its practices to become more effective, both in the context of specific events and proposals for particular business and, more generally, through the review of Standing Orders (discussed below). The staff of the OOC support the Clerk's advisory function and apply the Standing Orders and parliamentary practice on a day-to-day basis to the bills, questions, debates, petitions, papers and other items that comprise the House's business.

In particular, staff are assigned by the Clerk of the House to provide secretariat services to each committee. In addition to advising on parliamentary procedure, arranging meetings and administering a committee's proceedings and papers, staff members plan the programme of the committee's business in consultation with the chairperson and committee. This planning enables the committee's most important resource – its time – to be managed so the committee can effectively juggle its various items of business. Committee staff arrange the gathering of evidence and broker subject-matter advice, suggesting approaches and implementing the committee's directions. When committees decide to engage independent expert advice, this is organised by the secretariat and funded from Vote Office of the Clerk. Staff also can prepare papers alerting committees to issues raised during previous committee consideration of the subject-matter, or drawing attention to matters of parliamentary or constitutional significance.

The Parliamentary Service supports the needs of MPs, parties and the agencies hosted in the parliamentary precinct. It provides and administers the funding of services for parliamentary purposes, and runs the logistical services that enable the institution of Parliament to operate, including the buildings, security, tours, information and communications technology services, research services, and the offices of MPs (both at Parliament and in the community).

The Parliamentary Library is part of the Parliamentary Service. It supports MPs in executing their legislative, scrutiny and representative functions. Its staff includes 12 research analysts and eight research librarians whose primary responsibility is to respond to MPs' requests in their areas of subject expertise. Areas of expertise include economics, social services, law, statistics and environmental science. Other research staff specialise in answering more general requests, such as media searches. The Library's service is independent and non-partisan.

An MP and their staff may request information in relation to the whole range of the MP's parliamentary activities. A request for research might, for example, relate to a government or member's bill, committee work, a specific issue in the MP's constituency or a topical issue that the MP has a particular interest in. The information requested might include background briefings, analysis, statistics, costings, trends, international comparisons and literature reviews, among other possibilities. MPs may use the information they receive for speaking in debate, preparing questions to ask in the House or committee, developing policy ideas, answering constituents' inquiries and promoting issues.

The Library obtains the information to answer requests from sources that are in the public domain or available for purchase. This may be material that is in the Library's own collection or in databases to which it subscribes, is available on the internet, or can be borrowed or acquired from other libraries or organisations. The Library does not provide advice, nor does it undertake original research. From time to time it publishes research papers, which are often of an explanatory nature.¹⁴

¹⁴ Recent research paper topics have included monetary policy and crime statistics: G Cleland (2018) Monetary policy and the Policy Targets Agreement. Wellington: Parliamentary Library. <https://www.parliament.nz/en/pb/library-research-papers/research-papers/monetary-policy-and-the-policy-targets-agreement/>; J Wilson (2018) From offences to victimisations. Wellington: Parliamentary Library. <https://www.parliament.nz/en/pb/library-research-papers/research-papers/from-offences-to-victimisations/>

The government's own institutional scrutiny

Notably, the executive branch has its own layers of institutional scrutiny, through its monitoring agencies. Departments monitor Crown entities and other organisations that receive public money, and support the ministers who carry political responsibility for them.¹⁵ As one of three central agencies, the Treasury watches over State-owned enterprises, Crown-owned companies and other entities,¹⁶ and also monitors public sector financial management, as well as regulatory systems. The State Services Commission employs departmental chief executives and manages their performance, and also facilitates the self-reviews that other agencies undertake for performance improvement. The third of these central agencies is the Department of Prime Minister and Cabinet, which helps to coordinate the public sector's policy development and advice giving, and also supports the Prime Minister and Cabinet. In doing so, it administers the Cabinet Manual and circulates Cabinet decisions and requirements. Meeting those requirements can be a demanding process for departments that are submitting papers on behalf of Ministers to Cabinet for decision. These executive processes and mechanisms are complementary to, and frequently inform, the institutional layers that support parliamentary scrutiny.

Rules for scrutiny

Institutional support is also provided by the House through its adoption and refinement of rules to permit, empower, trigger or even require scrutiny to take place, and to set out the nature of that scrutiny. Changes to the House's rules cannot occur without the government's agreement, because a motion to insert, amend or revoke a rule in the Standing Orders normally reaches the floor of the House only if moved by a minister.¹⁷ Moreover, the general practice is for amendments to the Standing Orders to be adopted following recommendations made by the Standing Orders Committee, which seeks overwhelming support for its proposals (because the Standing Orders are treated as constitutional rules).¹⁸ This essentially means that the House will not adopt or strengthen scrutiny mechanisms unless both the government and main opposition parties agree.

Over the years, governments have allowed or even promoted rule changes that expanded opportunities for scrutiny. Notably, during the mid-1980s, when a number of major constitutional reforms occurred, the House reformed its select committee system. As well as settling on the current structure of multifunctional subject select committees, the House conferred on those committees a general power to initiate their own examinations of the "policy, administration and expenditure" of government agencies.¹⁹ The intention was that the regular and systematic monitoring of agencies would be supplemented by a power to initiate "detailed investigations into specific issues over which there may be some concern";²⁰ for the first time, select committees generally would have the power to initiate their own inquiries.²¹ The purpose of these changes was to "greatly strengthen the accountability of Government to Parliament by the more systematic, comprehensive study of government activity".²²

The inquiry powers were subsequently broadened, so committees could inquire into any matters within their subject areas, without needing to focus on the policy, administration and expenditure of government agencies.²³ In 2003 another adjustment permitted committees to conduct 'briefings', which enabled them to hold one-off hearings to find out about particular issues, without needing to launch a full-scale inquiry.

¹⁵ State Services Commission (2014) Guidance for monitoring departments. <http://www.ssc.govt.nz/crown-entities-guidance-for-departments>

¹⁶ Treasury (2018) Organisations we monitor. <https://treasury.govt.nz/about-treasury/our-work/organisations-we-monitor>

¹⁷ Members' notices of motion (i.e., motions proposed by MPs who are not ministers) are not reached unless special arrangements are made.

¹⁸ M Harris & D Wilson (eds) (2017) *Parliamentary practice in New Zealand* (4th ed). Auckland: Oratia Media Ltd, pp 12–15. Standing Orders Committee (2014) *Review of Standing Orders*. AJHR I.18A, p 4. For more information about the review of Standing Orders, see D Bagnall (2016) Reviewing the Standing Orders – how to make dreams come true, *Australasian Parliamentary Review* Vol 31 No 1 at 8–25. <https://www.aspg.org.au/a-p-r-journals-2/australasian-parliamentary-review-springsummer-2016-vol-31-no-1/>.

¹⁹ SOs [1985] 323.

²⁰ Standing Orders Committee (1985) *First Report*. AJHR I.14, section 4.4.3.1.

²¹ Prior to this, inquiries could be initiated only by the House, except for three technically focused committees that could initiate inquiries into their specialist areas. D McGee (1985) *Parliamentary practice in New Zealand* (1st ed). Wellington: Government Printing Office, p 193.

²² Standing Orders Committee (1985) *First Report*. AJHR I.14, section 4.4.3.4.

²³ Standing Orders Committee (1995) *Review of Standing Orders*. AJHR I.18A, p 40.

As discussed below, self-initiated inquiries represent ad hoc scrutiny of topical issues, although they are not a mechanism for systematic, ongoing scrutiny. A programme of scrutiny is provided by the annual financial cycle, which has always revolved around the passage of appropriation bills to approve the use of public money. For many years, the details of the Budget have been examined by select committees through the Estimates process. Until 1985, this was largely the responsibility of the Public Expenditure Committee but, with the reform of the select committee system, the task of Estimates scrutiny was spread across the subject select committees. The passage of the Public Finance Act 1989 was followed by a further revamp of the financial procedures, with ‘financial reviews’ (now called annual reviews) being instituted to provide annual ex-post scrutiny of agency performance during the previous financial year.²⁴ The procedure inevitably involved canvassing current operations of departments as well as their previous performance, and the rules were adjusted in 1996 to recognise this practice.²⁵ Scrutiny is bolstered by advice from the OAG, which is provided in accordance with a code of practice adopted by the Officers of Parliament Committee.²⁶

Parliamentary questions are a vital item in the scrutiny toolbox. The first oral questions were asked shortly after the House of Representatives held its inaugural meeting in 1854, and written questions were recognised in the House’s rules in 1903.²⁷ Today both procedures are firmly established in the House’s rules as the mainstay of ministerial accountability. Despite regular mutterings about the combative nature of question time, the current format for oral questions has barely changed since it was instituted in 1996 as part of the preparations for the first Parliament under the mixed member proportional (MMP) system.

Other scrutiny processes are activated by particular procedural triggers. One of the House’s first activities following an election, and at the start of each calendar year, is to hold a lengthy debate about the government’s proposed policy, spending and legislative programme for the term or year ahead.²⁸ When international treaties are presented to the House, they are referred to select committees for examination, supported by the presentation of analyses (prepared by departmental officials) of whether the treaties are in the national interest, and the House debates any treaty that requires primary legislation.²⁹ From time to time, certain executive documents are automatically referred to select committees for examination, such as whole-of-government directions or a national civil defence emergency management strategy.³⁰

The importance of scrutiny rules cannot be overstated. Opposition MPs have a strong interest in holding the government to account, and MPs who belong to government or support parties also have an interest in checking that ministers are well served by the agencies for which they are responsible. But a willingness to undertake scrutiny is meaningless if no opportunities are available to do so. Furthermore, political interest is too arbitrary to provide consistent answerability – there must be a framework of procedures that regularly and routinely draws attention to significant aspects of executive performance. It is then up to the politicians to direct their energies into delving further, as they see fit. Predictable processes build an expectation of scrutiny, which is important for good governance.

Formal accountability

Stringent reporting requirements are the bedrock of scrutiny. The House cannot function properly without reliable information, which is why various statutes set out detailed instructions for ministers and government agencies to report to the House on the matters for which they are responsible. For example, the Budget is supported by extensive documentation detailing the amount and scope of appropriations, and annual reports include statements about the financial position of each agency, as well as end-of-year reporting on results of public spending (for departments) or service performance (for other entities).

²⁴ Standing Orders Committee (1991) *Report on a new financial procedure for the House of Representatives*. AJHR 1.18A.

²⁵ Standing Orders Committee (1995) *Review of Standing Orders*. AJHR 1.18A, pp 68–69.

²⁶ Officers of Parliament Committee (2016) *Review of the code of practice for the provision of assistance by the Auditor-General to the House, select committees, and members of Parliament*. AJHR 1.15C. https://www.parliament.nz/en/pb/sc/reports/document/51DBSCH_SCR69374_1/review-of-the-code-of-practice-for-the-provision-of-assistance

²⁷ JE Martin (2004) *The House—New Zealand’s House of Representatives 1854–2004*. Palmerston North: Dunmore Press, p 121.

²⁸ See the section, below, about ‘Providing a government’.

²⁹ See the section, below, about ‘International treaty examinations’.

³⁰ SOs 393 and 394.

These documents follow requirements prescribed in the Public Finance Act 1989, the Crown Entities Act 2004, the State-Owned Enterprises Act 1986 and other statutes, as applicable. In particular, financial statements and related information must be provided to the Auditor-General for audit, with the audit reports included in the relevant annual reports.³¹ Reports to the House take the form of papers presented by ministers, many of which are assumed by the House as part of its proceedings and published on the Parliament website.

The primary purpose of presentation is formally to draw a document to the attention of the collective body of MPs. In the past, the action of presenting papers was a logistical necessity to ensure MPs had access to relevant information about public administration, but it also had a broader significance.

The documents that have been presented to the House are available for inspection by members, but the importance of presenting a document is figurative rather than physical. It is what the process of presenting a document to the House leads to, through its publication and wider circulation and through action by the House itself in relation to it, that is important.³²

Today the direct purpose of making documents available to MPs through presentation is less relevant, as much information is electronically available and does not require circulation in print. However, presentation retains its significance as:

- a public, symbolic act of political accountability
- a mechanism through which the House monitors, and is seen to monitor, executive actions and performance
- the means through which MPs are alerted to the release of important official documents³³
- a method for notifying the public and, in particular, the media of the release of important state documents
- a practical trigger-point for further parliamentary transactions
- a way of placing the existence of a document on the official parliamentary record (whether or not the content of the document is itself published as part of that record or in some other place such as a departmental website).

By stipulating the content of these documents, Parliament has indicated measures for which the government is to be held accountable. The requirements are a signal of what is important and thus what must be reported against. It follows that the addition of further statutory reporting requirements – such as for measures for assessing the quality of anticipatory governance (see chapter 3) – would increase the significance, for the public sector, of the matters that are to be subject to the new requirements. Through its use of its power to require the reporting of information, Parliament can shape the activity of governing.

Public scrutiny

Ensuring public confidence in the governance of the country is one of the main aims of the scrutiny process, alongside the objectives of better governance and, ultimately, the wellbeing of current and future New Zealanders. Beyond the House, other scrutiny bodies include the media and the public (e.g., through the Official Information Act 1982), the courts (through judicial review) and independent public institutions (e.g., the Children's Commissioner, Privacy Commissioner, Human Rights Commission and Independent Police Conduct Authority).

Robust examination of state authorities is designed to assign responsibility to identifiable individuals – often politicians. A strong expectation that poor performance will be identified and addressed may, conversely, instil trust in the overall governance system. The difficulty is that much scrutiny is unseen, because most results of scrutiny are unremarkable or scrutiny occurs at an institutional level.

³¹ Public Finance Act 1989, s 30.

³² M Harris & D Wilson (eds) (2017) *Parliamentary practice in New Zealand* (4th ed). Auckland: Oratia Media Ltd, p 614.

³³ Each week (whether or not the House is sitting) an email message is sent to the offices of all MPs, which includes a link to the papers presented that week.

The communication of Parliament's work is a perennial challenge. In a busy world, most of the grind of parliamentary life is not newsworthy and cannot compete for media attention. However, new technologies and channels provide the means for Parliament to distribute its work directly to interested members of the public. While a vast amount of information is open and available, this volume of information can itself be a barrier. Like the elected members and public officials who carry out the business of overseeing and being overseen, members of the public must be provided with easy access to the raw material so that, if they choose, they can use it to judge their representatives.

Involving all layers of scrutiny

For scrutiny to be fully effective, it must include each of the layers of scrutiny described above. Parliamentary scrutiny must involve the elected members of the House, at least to the extent of drawing matters to their attention so that they can exercise their political judgement about whether to take those matters further. Proper scrutiny requires select committee consideration and also the prospect of debate in the House. For this to occur, the institution of Parliament must furnish its rules with triggers and mechanisms that create or mandate opportunities for scrutiny, provide the workload capacity to undertake it and empower it through analysis, advice and logistical support from parliamentary agencies. As discussed in chapters 3 and 4, the process must be underpinned by a reliable and accessible stream of relevant information from the government about the aspect of its performance that is under scrutiny, ideally supplied in compliance with detailed statutory requirements. Ultimately, the public must be informed that the scrutiny is taking place, that it is robust and that members of the public themselves can judge the adequacy of the country's governance.

Barriers and challenges to scrutiny of long-term governance

Chapter 3 described the presentist bias inherent in any political system that responds to the needs, values and wants of the public. In particular, it outlined political, institutional and constitutional factors that affect the quality of long-term governance. In New Zealand, these include the short three-year electoral cycle, a relentless news cycle, conflicting intertemporal interests and minimal representation or constitutional protection of future generations. All of these challenges apply to the parliamentary context but, as the following discussion identifies, other factors also come into play.

Executive dominance of Parliament

Under the Westminster system, the government must have the confidence of the House to survive; the corollary is that the government tends to maintain control of the legislature. Arguably our Westminster-style Parliament has been modified since the introduction of the MMP electoral system in 1996. It has consistently resulted in multi-party parliaments, as well as largely minority governments that could assume and maintain power only through establishing formal coalition arrangements, or obtaining confidence and supply agreements with minor parties, or both. This process of forming and maintaining a government and progressing policy initiatives entails continuous inter-party negotiation and compromise, which limits absolute dominance by any one party.

But we still have inherited a system where the executive is expected to dominate – fiscal control is a prerequisite for demonstrating the confidence of the House. The House's rules secure most legislative time for the government's initiatives,³⁴ and limit the means through which non ministers can bring business

³⁴ The rules of the House gift about 67 percent of normal sitting hours to the government to pursue its policy and legislative programme. That equates to about 21.5 hours out of the 34 hours of sitting time available every two sitting weeks (of the other 12.5 hours, about 6 hours are spent on question time, 2 hours on general debates, and 4.5 hours on private, local and members' orders of the day). The government can obtain additional hours by using extended sittings and urgency.

to the floor. Minor parties uphold multi-party agreements, which cover not only confidence and supply matters, but also core aspects of the major party's legislative agenda. Even where an agreement contains 'agree to disagree' provisions, minor parties have political incentives not to overuse them; for instance, they could be seen to be impeding government.³⁵ Because of the relative size of the executive and the legislature, ministers comprise a large proportion of the overall membership of governing parties. Overall select committee membership reflects the membership of the House, which means that government members either form the majority or, when numbers are tied, can block opposition initiatives if they wish.

Turnover rates of MPs

New Zealand's short parliamentary term of three years, as well as reinforcing a short-term bias in ministers and MPs, contributes to a substantial turnover rate of MPs leaving and entering the House. Since 1999, the average rate of turnover of MPs per term of Parliament has been 25.9 percent, peaking at 31.1 percent for the 2008–2011 term.³⁶ One effect of this turnover is that, for a significant period after the start of each parliamentary term, many backbench MPs are still learning how to make the most of their participation in scrutiny activities and other proceedings. Even within a three-year term, the institutional memory of committees can be affected by changes in membership, as portfolios are reshuffled around caucus members, or former government backbenchers are promoted to ministerial or under-secretary positions. This lack of institutional memory is likely to reduce the consistency with which issues are scrutinised over a long period.

Parliamentary capacity and capability

Like all public organisations, parliaments face scarce resources. MPs, funds and other resources are allocated across committees and other parliamentary processes. New Zealand has a particularly small parliament relative to its population, compared with most democracies with similar population sizes (i.e., close to 5 million) in the Organisation for Economic Co-operation and Development (OECD).³⁷ Consequently, MPs who are not part of the executive branch are stretched thinly across multiple committees, especially government backbenchers, who invariably are fewer in number than MPs of opposition parties. This relatively small pool of MPs has implications for the number and size of select committees, which in turn affects the amount of business that can be conducted in the committee system.

New Zealand's select committees are multifunctional. They have items of business that have deadlines, for example legislative scrutiny. These day-to-day tasks are short term, and also take up a lot of a committee's time. On the other hand, inquiries, which could be a tool to scrutinise the longer-term performance of the government, are self-initiated and do not have imposed deadlines. They therefore can take the backseat on a committee's agenda. Furthermore, New Zealand lacks an upper house that could provide additional scrutiny capacity and a body of members that is less subject to executive dominance.

³⁵ A Geddis (2016) Parliamentary government in New Zealand: Lines of continuity and moments of change. *International Journal of Constitutional Law* 14(1): 99–118; J Boston & D Bullock (2012) Multi-party governance: Managing the unity-distinctiveness dilemma in executive coalitions. *Party Politics* 18: 349.

³⁶ Calculations of the number of new MPs are based on the Schedule of Members, Journals of the House of Representatives, and were prepared by Dr John Wilson, research analyst, and Michiel Verkade, research librarian, Parliamentary Library. The figures include MPs who were declared elected during the term (i.e., not as part of the results of the general election). The total number of MPs comprises all MPs who served during a term, not just the number who served at any one time. So, for the 2008–2011 term of Parliament, 41 new MPs out of a total of 132 MPs served during that term (the general election resulted in there being 122 seats in the House). MPs who had previously served but who were re-elected after a period outside Parliament are regarded as 'new', for this purpose.

³⁷ For instance, currently the Danish Parliament (the Folketing) has 179 members and the Finnish Parliament (the Eduskunta) has 200, while the Norwegian Parliament (the Storting) has 169 members. In Ireland, the lower house (the Dail Eireann) has 158 members, while the upper house (the Seanad Eireann) has 60 members, giving 218 members in total. Some subnational legislatures have more seats than the New Zealand Parliament. For instance, the Scottish Parliament has 129 members. For population data, see United Nations (2017) *World population prospects 2017: Data query*. <https://population.un.org/wpp/DataQuery/>; for parliamentary data, see Inter-Parliamentary Union (2019) Compare data on parliaments. https://data.ipu.org/compare?field=country%3A%3Afield_structure_of_parliament#map

Media coverage

Media coverage can be helpful as it draws public attention to parliamentary scrutiny of government. However, because parliamentarians must constantly vie for the oxygen of media interest, they will tend to focus on politically important issues that are more media-friendly, rather than matters that would not gain coverage.³⁸ Long-term issues, which tend to be less visible or less important to voters and hence the media, therefore may be overlooked.

Insufficient engagement of scrutiny layers

The quality of parliamentary scrutiny of long-term issues will be influenced by the extent to which it involves each of the above layers of scrutiny. The absence of formal requirements for the government to report on its long-term governance activity, along with the lack of a framework of statutory targets or measures against which performance can be assessed, reduces the capacity for meaningful scrutiny. Insufficient legal or procedural triggers for scrutiny would mean it is less likely to take place, and scrutiny procedures would be compromised if committees lack the workload capacity or if appropriate support from parliamentary agencies, including the Officers of Parliament, is unavailable. Moreover, if the fruits of scrutiny are not debated in the House and communicated in an accessible way, then the public will not be able to judge the quality of long-term governance.

Indicators

From the above discussion, a range of indicators emerge for assessing the parliamentary scrutiny of long-term governance. Table 5.2 summarises these indicators and gives examples of how satisfaction of the indicators could be judged. These examples are focused on the New Zealand context, but most are likely to be applicable to other jurisdictions as well.

It is unlikely that any parliamentary scrutiny model could satisfy all of the indicators. Rather, they are a tool for analysing the extent to which the institution of Parliament is positioned to provide effective scrutiny.

Political and public engagement

The first group of indicators relates to the extent to which parliamentary scrutiny of long-term governance engages MPs and the public. Ideally, the scrutiny model would itself increase awareness of long-term matters, with the scrutineers developing a working knowledge of concepts that can be useful for testing long-term governmental performance. Participating in robust scrutiny would equip MPs to assess the quality of anticipatory governance, applying relevant criteria, and expressing their views and holding the government to account for its performance.

Most concerted scrutiny takes place in select committees. Active consideration of long-term issues by select committees can be measured with reference to the number of hours that committees spend carrying out such scrutiny, as long as it can be distinguished from time spent on other scrutiny procedures. Presently, data of this specificity have not been collected for New Zealand committee activities, apart from information gleaned from the minutes of meetings relating to a small subset of items relating to government reports about long-term matters (as discussed later in the chapter).³⁹ Committee engagement can also be gauged by counting substantive committee reports on long-term issues. A 'substantive' report for this purpose is one that includes text that specifically addresses the subject-matter of the report, rather than being pro forma in nature. The material length of the report is not distinguished here, as it is more about the opportunity for MPs to deal substantively with issues and express their views.

Inquiries are a vehicle for committees or other scrutiny bodies to investigate matters in an in depth manner. They are not normally part of a regular cycle of scrutiny, nor do they commence through the operation of procedural triggers, which makes them a strong indicator of MPs' engagement, because a majority of committee members must support a proposed inquiry for it to be initiated.

³⁸ White, *Parliamentary scrutiny of government*, above n 4.

³⁹ See below on the Finance and Expenditure Committee's consideration of the statement on the long-term fiscal position and the investment statement.

Plenary debates demonstrate a legislature's engagement with issues. For example, it is not unusual for the Speaker to accept applications for urgent debates about matters of ministerial responsibility. This signals the central importance of ministerial accountability in the Westminster system. Similarly, the House devotes roughly half of its time to legislative debates. Debates also provide a suitable coda to select committee consideration, where MPs can highlight what they regard as the important issues raised in the committee room.

A factor in the presentist bias of governance is that future generations cannot represent their own interests (see chapter 3). To counter this, a well-rounded parliamentary model would enable the expression of diverse views about long-term issues through various forms of intergenerational representation. This involves more than taking long-term risks, trends and projections seriously. It also entails giving opportunities for a cross-section of the public to articulate their vision for where the country should head and what the nature of long-term interests may be, thus providing elected representatives with a broad foundation for strategic leadership. The legislatures in some countries, as well as welcoming citizens' perspectives, have established public institutions to represent future-oriented interests (see chapter 6).

Public awareness of the scrutiny model, and buy-in for its process and results, can bolster public confidence in anticipatory governance and the country's future direction, while also contributing to the durability of the scrutiny model itself (see below). The use of website and social media data, and other engagement information such as the number of submissions on an item of business, analysis of media reports, or surveys, can provide measures of public engagement with parliamentary activities.

Robustness

A second group of indicators points to the robustness with which long-term issues are scrutinised. Most of these relate to the institutional layer, described above, that empowers effective scrutiny. While MPs raise long-term issues from time to time in accordance with their political concerns, this ad hoc approach does not provide the basis for an effective scrutiny system. The indicators therefore include the following mechanisms:

- procedural triggers that provide for an automatic parliamentary response to certain conditions when they occur (e.g., when some papers are presented to the House in compliance with a statutory requirement, they are automatically referred to a select committee)
- regular cycles of scrutiny, which guarantee periodic opportunities for scrutiny (e.g., the annual review procedure)
- the consistent development of proactive work programmes for committees to plan what in-depth inquiries they will undertake over the term of a Parliament.

Procedural triggers and scrutiny cycles reflect the rules adopted by the House. A mechanism can be described as systematic only if it is certain to occur. Work programmes are a matter of practice – all committees generate and follow work plans to a degree, as forward planning is necessary for them to successfully juggle multiple items of business with various reporting deadlines and priorities. The time-projections of these plans vary, but parliamentary committees currently do not operate under a programme for the whole term of Parliament. The challenge is for committee staff to convince chairpersons and members of the benefits of instituting such programmes, so they can find an agreed approach to tackling the big issues within their portfolios of interest.

When embarking on the scrutiny of anticipatory governance, MPs and committees need to know what to look for. Consideration of future matters can be hampered by a perception that it amounts to crystal-ball gazing. But it is possible to provide structure for such examinations by articulating criteria that can be used for assessing the quality of anticipatory governance (see chapter 3). The scrutiny model should include reference to a set of criteria or other benchmarks against which the government's performance in long-term matters can be assessed.

Of course, a big question is how committees can find the time to look at long-term issues. This is not an easy problem to address, as the majority of committees would regard themselves as operating at or beyond a comfortable level of capacity, even without new types of business being added. An indicator therefore is needed for committee workload capacity, so that the adoption and ongoing conduct of substantial functions is matched with an effort to mitigate the impact on committee workloads.

Other indicators of the robustness of the scrutiny model include the availability of research within parliamentary agencies, giving committees and MPs ready access to information about long-term trends and issues; and the ability of the scrutiny model to connect with independent expert advice on relevant topics. This could include contracting advisors funded by the Parliament, or forming partnerships with authoritative and politically neutral expert organisations.

Impact

For a scrutiny model to be meaningful, it must affect the quality of governance, and have an impact on decision-making. The role of formal accountability is key to this impact – that is, where Parliament passes laws that set out requirements for the government to report on its activity. In the context of long-term governance, statutory requirements for reporting on long-term matters would necessitate a shift to behaviours that involve a long-term framework. As described in chapter 3, a number of commitment devices are in place, including both statutory provisions and administrative requirements ordained by the Cabinet. However, the coherence of these commitment devices is patchy, in that they have developed in an ad hoc manner over several decades and without reference to an overarching framework. Several initiatives to develop long-term targets and to take an intergenerational approach have been undertaken in recent years, as described in chapters 3 and 4. From the parliamentary perspective, these initiatives have yet to flow through to systematic accountability to the House or its committees.

A strong expectation that the House would scrutinise the quality of long-term governance would provide additional impetus towards an ethos of governing for the future. This expectation would be generated by parliamentary rules that embed the consideration of long-term matters and examination of anticipatory governance in the House's procedures, based on a foundation of statutory accountability requirements. Legislative imperatives for public sector chief executives to exercise stewardship should be backed up by parliamentary scrutiny of this aspect of agency performance. If the assessment of long-term governance included consideration of criteria such as those set out in chapter 3, then some governmental effort would be directed towards satisfying those criteria. In particular, a more consistent approach to determining long term policy objectives, and for reporting progress against those objectives, would provide a solid basis for parliamentary scrutiny of government performance, and also potentially for examining legislation in terms of how well it aligns with long-term outcomes.

The policy impact of a scrutiny model is an important indicator of its effectiveness. Once a scrutiny model has been in place for some time, it may be possible to discern the extent of its influence on policy initiatives. An obvious example is the annual process of Budget scrutiny, which shapes and propels the development of Budget bids across the public sector to implement policies. In local government, long-term planning processes have a discernible impact on how local authorities express values, determine priorities and set future directions. Although the actual policy impact of parliamentary scrutiny can be difficult to assess, it has been attempted at least once previously, using a mixture of qualitative interviews and quantitative study of the implementation of recommendations by the government through both legislative and non-legislative actions.⁴⁰ A full assessment of this nature is not possible in the context of this report, although the discussion below sets out the results of a broad inspection of recent select committee inquiry reports, including the nature of government responses to recommendations. But while it is problematic to predict in advance what the policy impact of a scrutiny model may be, an important element in designing such a model would be providing for follow-up, so an institutional means exists to hold the government to account for its ongoing implementation of recommendations over the long term.

Durability

Finally, to be effective the scrutiny model must be durable. A previous study in the United Kingdom assessed a number of international models for parliamentary representation of future generations, and identified key features that affected whether an intergenerational representation model is likely to endure.⁴¹ The level

⁴⁰ M Benton & M Russell (2013) Assessing the impact of parliamentary oversight committees: The select committees in the British House of Commons. *Parliamentary Affairs* 66: 772–797.

⁴¹ N Jones, M O'Brien & T Ryan (2018) Representation of future generations in United Kingdom policy-making. *Futures* 102: 153–163.

of authority with which the mechanism operates is important, and requires a careful balance: a powerless institution will be ineffective, whereas an overly powerful entity is likely to face political rejection in the short term.⁴² A sense of legitimacy is crucial, meaning that a political consensus for the establishment of the model is necessary, and this broad political support must be nurtured through the strong adherence to a neutral approach. Note that ‘impartiality’ is not demanded in this context, because an effective scrutiny model must engage the attention of politicians, and they are not expected to be impartial. Rather, the model itself should be neutral (i.e., non-partisan) in the platform it provides for political scrutiny; that is, the nature of the scrutiny model should not depend on which parties form the government or opposition.

Public engagement will enhance the mechanism’s survival prospects. A strong sense of the legitimacy of the scrutiny model may mitigate against unilateral or reactionary political actions to curb the effectiveness of, or even abolish, the scrutiny model. Another indicator that a scrutiny model is likely to endure is having an established funding mechanism that provides reasonable certainty about its ongoing resourcing. For example, an approach that places decision-making about the resourcing of parliamentary scrutiny with the Parliament itself, rather than at the behest of the government, would enhance the scrutiny model’s survival prospects and its continuing public legitimacy as a mechanism for holding the government to account.

Finally, parliamentary institutions must evolve so they retain their relevance. It is important for the scrutiny model to be subject to periodic review to check its effectiveness and provide a mechanism for updating how it works, so it can remain relevant and continue to provide effective scrutiny into the future.

Table 5.2: Indicators for evaluating parliamentary scrutiny of long-term governance

Type of indicator	Indicator	Example of measure (NZ)
Political and public engagement <i>Connection of MPs and the public with long-term issues</i>	1 Active committee scrutiny of long-term issues	Select committee meeting hours spent on long-term scrutiny
	2 Inquiries into long-term issues	Number of substantive select committee reports
	3 Regular plenary debate of long-term issues	Number of inquiries initiated
	4 Public awareness of parliamentary scrutiny of long-term issues	Number of debates
	5 Public participation in framing long-term issues and outcomes	Parliamentary engagement data Number of participation opportunities
Robustness <i>Empowerment of effective scrutiny through opportunities and capability</i>	6 Parliamentary rules embedding procedural triggers for scrutiny of long-term issues	Parliamentary rules adopted
	7 Parliamentary rules requiring regular cycles for scrutiny of progress against long-term objectives	Parliamentary rules adopted
	8 Work programmes of committees include in-depth inquiry into long-term issues	Committee work programmes
	9 Adequate workload capacity of committees or other scrutiny bodies	Overall committee meeting hours
	10 Use of criteria for assessing anticipatory governance	Accessible set of criteria for parliamentary use
	11 Dedicated research and advisory support for MPs and committees	Data about support provided by Officers of Parliament and parliamentary agencies
	12 Ready access to, or ongoing partnership with, independent expert advice about long-term issues	Availability of independent advisors Established partnerships

⁴² Ibid, p 158. The paper cites the example of the Hungarian Commissioner for Future Generations, which was established in 2008 but effectively ended in 2011.

Type of indicator	Indicator	Example of measure (NZ)
Impact <i>Effect on quality of long-term governance</i>	13 Strong government expectation of parliamentary scrutiny 14 Coherent statutory commitment devices 15 Measurable long-term policy objectives, targets and monitoring, reported to House 16 Clear accountability for stewardship 17 Impact on policy outcomes 18 Follow-up mechanisms as part of scrutiny model	Parliamentary rules adopted Statutory commitment devices in place Framework adopted for setting objectives and targets, and reporting Identifiable accountability mechanism Evidence of impact Follow-up mechanisms in place
Durability <i>Continued effectiveness of scrutiny model</i>	19 Broad political support for scrutiny model 20 Scrutiny without frustration of governance 21 Public confidence in scrutiny model 22 Certainty of resources for scrutiny model 23 Ongoing relevance of scrutiny model	Explicit cross-party support for scrutiny model Analysis of parliamentary rules Public engagement data Funding decision-making process Mechanism to review and update scrutiny model

Assessing scrutiny of long-term governance in New Zealand

So how does the scrutiny of long-term governance in New Zealand measure up? The following sections examine the categories of parliamentary activity, drawing in relevant indicators as applicable.

Types of parliamentary activity

Scrutiny is the central theme of this report, although the full array of parliamentary functions is pertinent. The House has four primary functions: legislating; providing a government; scrutinising and controlling the government; and representing the public.⁴³ These primary functions can be described separately but generally occur in combination. For example, most bills brought to the House originate from the government, and the legislative process usually intermingles the activities of: closely examining relevant policies and the text through which they are embodied in the legislation; debating the merits of these policies; and expressing different perspectives, including through receiving and analysing public submissions. As another example, petitions are fundamentally a representative mechanism, which enables members of the public to bring issues to the House, yet petitions frequently raise issues that lead to scrutiny of government policies and performance.

While acknowledging, then, that all parliamentary activities involve a mix of the House’s functions, the following sections categorise the activities as follows for the purpose of this report:

Legislating

- introducing and passing bills
- examining secondary legislation

Providing a government

- Speech from the Throne and Address in Reply debate
- Prime Minister’s statement

⁴³ Harris & Wilson, *Parliamentary practice in New Zealand*, above n 32, pp 2–5. The approval of public finance and revenue is an exercise of the scrutiny and legislative functions in combination, though it is expressed as a separate function by some authors.

Scrutinising and controlling government

- oral and written questions
- fiscal statements
- Estimates
- annual reviews
- briefings
- inquiries
- reports of Officers of Parliament
- international treaty examinations

Representing the public

- petitions
- cross-party parliamentary groups
- special debates.

Legislating

The House examines and passes laws, which receive Royal assent and become Acts of Parliament. MPs, therefore, are legislators.⁴⁴ This role entails proposing bills and amendments, testing policy ideas and also examining legislation to ensure that it is fit for purpose.

Roughly half of the House's time is spent on legislating. Moreover, it is the major preoccupation for subject select committees; their role of examining and, usually, rewriting bills is an important and distinctive feature of the New Zealand parliamentary system. Secondary legislation, which largely comprises instruments made under powers delegated by Parliament to other public authorities,⁴⁵ is also subject to parliamentary examination, primarily through the Regulations Review Committee, and ultimately can be amended, revoked or disallowed by the House.⁴⁶

Introducing and passing bills

Parliament has full power to make laws,⁴⁷ but the House has only limited time in which to consider and pass them, and legislative time is a precious resource. The government of the day has a mandate to propose bills to implement its policy priorities, and in doing so considers the prospective cost in House time. In this way, the House naturally constrains the passage of controversial legislative proposals or wholesale reforms.

Statute book as an ongoing work-in-progress

Although, to varying degrees, each year may see some legislative change, the vast bulk of the statute book endures. Maintaining and updating the law is thus itself a constant objective, with non-controversial nuts-and-bolts legislation competing for attention with more politically important initiatives. In recent times, the House has facilitated the gradual improvement of the statute book by: adopting procedures for 'extended sittings'; implementing a procedure for passing revision bills; and generally having the Business Committee arrange the House's time. All of these mechanisms smooth the passage of non-controversial or technical bills.⁴⁸ The Parliamentary Counsel Office is the agency with primary responsibility for 'legislative stewardship'; that is, the long-term improvement of the laws of New Zealand.⁴⁹ The OOC also sees a role for itself in enhancing legislative quality as part of the Office's contribution to parliamentary effectiveness. To do so, it advises on procedures that allow for greater legislative scrutiny and improvement, and partners with

⁴⁴ Ibid, p 50.

⁴⁵ Such as Orders in Council, regulations, rules and other types of legislative instruments.

⁴⁶ Harris & Wilson, *Parliamentary practice in New Zealand*, above n 32, chapter 28.

⁴⁷ Constitution Act 1986, s 15(1).

⁴⁸ Standing Orders Committee (2011) *Review of Standing Orders*. AJHR I.18B, pp 9, 14–17, 37–39.

⁴⁹ Parliamentary Counsel Office (2017) *Strategic Intentions for the period 1 July 2017 to 30 June 2021*, A9 SI, p 3.

the Parliamentary Counsel Office throughout the legislative process, as well as analysing constitutional and administrative law matters that arise from bills and informing committees about its findings.

Ad hoc approach

No particular parliamentary requirements or practices promote the examination of bills to identify their long-term implications or their congruence with long-term objectives or targets. Committee members may choose to seek advice on such matters, but whether they do so depends on the circumstances, such as their own interest, the subject-matter of the bill, or concerns about long-term implications raised through public submissions. These responses are ad hoc; there is no procedural trigger or routine stream of advice that draws long-term considerations to the attention of lawmakers when they consider bills.

Select committees have reasonable control over the manner in which they consider bills. The main limitations take two forms. First, procedural limitations prevent them from considering the addition of irrelevant provisions to bills and require them to meet strict deadlines for reporting back to the House. A second, pragmatic limitation is that committees largely rely on subject-matter expertise provided in good faith by government advisors. Committees appoint independent advisors if they deem such advice necessary, but this is not the norm.

Documentation

When a select committee starts to consider a government bill, it has access to various supporting documents. The bill itself, aside from its legislative text, must include an explanatory note with a statement about the bill's general policy.⁵⁰ Committee members can access a regulatory impact statement and departmental disclosure statement, and usually the committee receives an initial briefing about the bill from departmental advisors.

Regulatory impact analysis

A regulatory impact statement, prepared during the pre-legislative phase to inform Cabinet when considering whether to proceed with the legislation, is available for the committee to read. The statement sets out the impact analysis prepared by public servants to assure ministers that policy proposals are robust, that they are in the public interest, and that a legislative solution is demonstrably necessary or preferable. Regulatory impact statements are prepared by the department leading the policy process, and are peer reviewed by the Treasury or another agency that provides regulatory oversight.

A few categories of bills are automatically exempt from regulatory impact analysis, and others are exempted by the Treasury.⁵¹ The most frequent discretionary reason for exempting bills is that they are judged to have “no or minor” impacts, commonly because they amount to “changes to the internal administrative or governance arrangements of the New Zealand government which are likely to have no or very low impacts outside of government”.⁵² Significantly, a recent bill that provided explicitly for a long-term framework for tackling a complex issue, the Child Poverty Reduction Bill, was exempted from the requirement for a regulatory impact assessment,⁵³ although its development was subject to an extensive report to the minister on “Approach and options” for implementing the policy as part of the new government's 100-day plan.⁵⁴ While the bill (since enacted) provided a basis for tackling a major problem, its provisions were primarily concerned with establishing objectives, targets and measures within the machinery of the government, with little regulatory effect outside that sphere. The same could be said of other legislative proposals to introduce frameworks for addressing long-term challenges, which thus might similarly be exempted from regulatory impact analysis.

⁵⁰ SO 257.

⁵¹ Treasury (2017) *Guide to Cabinet's impact analysis requirements*, section 7. <https://treasury.govt.nz/publications/guide/guide-cabinets-impact-analysis-requirements-html#section-7>.

⁵² *Ibid*, section 7.1.

⁵³ Child Poverty Reduction Bill (14–1), December 2017, explanatory note.

⁵⁴ Ministry of Social Development (2017) Child poverty legislation: Approach and options. <https://dpmc.govt.nz/sites/default/files/2018-03/doc-01-advice-on-legislation-for-child-poverty-measures-and-targets.pdf>

But that does not prevent the analysis of other bills, with more substantial regulatory impact on the wider public, to gauge their potential longer-term implications and coherence with broader strategies for the future. Guidance for public servants preparing regulatory impact statements does not give explicit prompts to discuss how regulatory proposals fit into a long-term picture. Published guidelines acknowledge, however, that carrying out an impact analysis necessarily involves a process of projecting forward the likely impact of the regulatory options that are under consideration:

Impact Analysis needs to be forward-looking in order to assess alternative options for dealing with a problem over time. It is therefore useful to identify how the status quo is likely to change over time without further intervention – rather than simply providing a static snapshot.⁵⁵

Regulatory impact statements generally follow a template, though they may vary somewhat. Impact analysis should attempt to describe and, where possible, quantify the costs and benefits expected, along with risks that would need to be managed, for the regulatory options under consideration. Potentially, the practice for preparing regulatory impact statements could include addressing the expected long-term effects of policy proposals, although this varies according to the context: some regulatory responses are particularly short term in focus, or of a smaller scale, so are not amenable to long-term impact analysis.

It would be problematic at this time to propose an explicit requirement for regulatory impact assessments to set out long-term projections. Rigorous cost–benefit analysis inherently requires a proper assessment of costs and benefits over an extended time horizon, using (ideally) a range of discount rates so that the implications of discounting are clear to policy-makers. However, policy agencies may vary in their levels of expertise or capacity to carry out such analyses. Moreover, agencies often are under pressure to produce regulatory impact statements quickly in order to meet ministerial timelines. On the other hand, a failure to consider the long-term implications means that important potential costs and benefits are being ignored. It would be useful to explore with relevant central agencies whether long-term costs and benefits could be given greater weight as part of regulatory impact analysis.

Departmental disclosure statements

The Cabinet resolved in 2013 to require departments to prepare disclosure statements for government bills, drawing attention to key legislative features and unusual aspects of bills. The purpose of departmental disclosure statements is to enhance scrutiny and in that way promote good legislative practice.⁵⁶ They are prepared when a bill is in its final form, provided to the Cabinet when the bill is ready to be approved for introduction, and then published for the information of MPs and the public. Substantial amendments proposed on Supplementary Order Papers during a bill's passage are also subject to departmental disclosure statements. The government's administrative decision to oblige departments to prepare disclosure statements is intended to become a statutory requirement through the Legislation Bill, which is currently before the House.⁵⁷

Disclosure statements are prepared using a strict template and focus on drawing attention to expectations for good lawmaking. They thus include a checklist of important legislative tests, such as consistency with the Treaty of Waitangi and the New Zealand Bill of Rights Act 1990, and implications for privacy, as well as legislative features such as the compulsory acquisition of property, imposition of tax, and retrospectivity. Disclosure statements also provide a useful shortcut to other relevant material about the policy background for the bill, including the regulatory impact statement, as well as other publicly available reviews and reports that may have fed into the policy, such as reports of the Law Commission, Productivity Commission or another taskforce or agency, either in New Zealand or overseas. An option to consider in improving parliamentary scrutiny could be to include references to long-term government objectives or strategies with which the underlying policy for a bill is aligned.

⁵⁵ Treasury (2017) *Best practice impact analysis: Guidance note* (interim version), section 2.1. <https://treasury.govt.nz/sites/default/files/2018-03/ia-bestprac-guidance-note.pdf>.

⁵⁶ Cabinet Office circular CO (13) 3, 4 July 2013. <https://dpmc.govt.nz/publications/co-13-3-disclosure-requirements-government-legislation>

⁵⁷ Legislation Bill (275–2), Part 4.

In terms of their timing, disclosure statements are prepared when the policy process is effectively complete, shortly before the introduction of a bill. While they are useful for the legislative process, they are not part of policy-making. From that perspective, including long-term considerations at an earlier stage in the policy process would be more formative, feeding into the development of policy proposals. An appropriate mechanism could be for disclosure statements to indicate whether an analysis has already been carried out of (a) the long-term issues and objectives the bill is intended to address, and (b) the expected long-term outcomes from the bill; and, if so, where that analysis is available.

Initial briefing to select committee

Shortly before the committee begins to hear evidence, it is normal practice for departmental advisors to present an initial briefing, highlighting the bill's policy intentions and describing its provisions. This initial briefing provides a further opportunity for officials to outline to the select committee, as it starts its examination of a bill, how the bill aligns with strategic intentions for the future. On the other hand, the contents of initial briefings to select committees are not prescribed, nor is there a template for delivering them. If such a template were devised, it could suggest that officials brief committees about expected long-term outcomes from the legislation.

Durable legislative solutions

As discussed in chapter 3, one of the challenges for safeguarding future interests is the difficulty of obtaining a broad, cross-party consensus on shared values that can sustain stable, forward-looking policy settings. A fundamental principle of New Zealand's democratic system is that one Parliament does not bind another. Some constitutional arrangements are entrenched, but doubt remains about whether an attempt to entrench other, non-constitutional policy settings would be upheld by the courts.⁵⁸ So, when it comes to adopting an enduring legislative approach to public policy problems, getting broad cross-party agreement is the only sustainable option.

Many laws are passed unanimously, but this is less likely when seeking to address intergenerational issues. Occasionally, though, wide agreement is sought for durable legislative solutions. For example, the New Zealand Superannuation and Retirement Income Act 2001 includes a "political commitment" by particular parliamentary parties to sustaining entitlements to New Zealand superannuation, and an expectation that those parties will be consulted about proposed amendments.⁵⁹ Subsequently, because it was considered important to have widespread parliamentary support for Acts such as the State Sector Act 1998, Public Finance Act 1989 and Crown Entities Act 2004, parliamentary consultation occurred in 2004 and 2012 on omnibus bills relating to those three Acts, before those bills were introduced. More recently, cross party support was achieved for the Child Poverty Reduction Bill, so as to provide a legislative framework for holding successive governments to account as part of an enduring commitment to reducing child poverty.⁶⁰

In New Zealand, pre-legislative policy development is largely the domain of the government, which has a constant prerogative to bring bills to the House and propose public spending to implement legislative changes. The intensive processes of developing major, detailed policy programmes and drafting legislation are undertaken by the public service and generally are beyond the means of parties outside government. Understandably, successive governments are conscious of the short period they have before they must seek a fresh mandate at the next general election, and focus their resources on embedding their own policy worldview. Our lawmaking process and constitutional arrangements thus provide little incentive for governments to take the time to build consensus around problem definition and the consideration of options and potential solutions during the pre legislative phase. On the contrary, a real opportunity cost is involved for ministers who delay the introduction of bills to allow for cross-party consensus-building, as it reduces the timeframe for passing the bills before the end of the parliamentary term. If a bill has overwhelming support, the Business Committee may make ad hoc arrangements to facilitate the House's consideration of the bill, or simply a sense of goodwill may hold back MPs from unduly extending the bill's

⁵⁸ PA Joseph (2014) *Constitutional and administrative law in New Zealand* (4th ed). Wellington: Brookers, paras 16.8.4 and 16.8.11.

⁵⁹ New Zealand Superannuation and Retirement Income Act 2001, ss 72–73 and Schedule 4.

⁶⁰ Third reading debate on Child Poverty Reduction Bill, 18 December 2018, 735 NZPD 9035–9036 (Ardern).

passage. But it is not certain that such results will eventuate when the government makes decisions about how to develop its policy proposals.

During the review of Standing Orders in 2017, Hon Trevor Mallard, who at the time was an Assistant Speaker, proposed that the House find a mechanism for recognising pre-legislative consultation by the government.⁶¹ While this proposal did not proceed at the time, the development of parliamentary procedures for rewarding inclusive, consultative pre-introductory processes could foster the development of legislation that has the sort of broad political support needed for future focused legislation to be successful.

Secondary legislation

Some secondary legislation may have significant long-term impacts. From permissible uses and handling of hazardous substances, to driver licensing, to the level of allowable gifts for the purpose of assessing eligibility for publicly funded residential care, the detail of regulations, rules and other instruments can shape societal trends and influence behaviour with long-term implications. However, the essence of secondary legislation is that Parliament has delegated its lawmaking power. Oversight is exercised on behalf of the House by the Regulations Review Committee, but that amounts to scrutiny on technical grounds; the committee avoids active involvement in debate about policy matters. Orchestrated parliamentary scrutiny of the anticipated long-term effects of secondary legislation would be impracticable.

Responsibility for properly considering secondary legislation lies with the lawmaker concerned. One advantage of incorporating long-term considerations more fully into regulatory impact assessments, as discussed above, would be that such analysis also applies to secondary legislation administered by government departments.

Conclusion

Overall, while laws may endure indefinitely, the legislative process tends to focus on more immediate legal effects and political responses, rather than long-term outcomes. Table 5.3 summarises how the House's performance of its legislative function may be appraised against relevant indicators.

⁶¹ Standing Orders Committee (2017) *Review of Standing Orders*. AJHR I.18A, pp 24–25.

Table 5.3: Summary assessment of current performance against relevant indicators – legislative function

Indicator	Assessment
Political and public engagement	
Active committee scrutiny of long-term issues	Engagement with long-term issues during the legislative process is generally reactive, depending on the policy that the legislation is intended to implement. The legislative scrutiny process does not foster discussion about long-term considerations.
Regular plenary debate of long-term issues	
Public participation in framing long-term issues and outcomes	
Robustness	
Parliamentary rules embedding procedural triggers for scrutiny of long-term issues	No parliamentary rules trigger a focus on the long-term implications of legislation.
Adequate workload capacity of committees or other scrutiny bodies	Legislation accounts for roughly half of select committee meeting time. Legislative workload has a profound impact on the capacity of committees to conduct other scrutiny activities, such as inquiries into long-term issues.
Impact	
Strong government expectation of parliamentary scrutiny	There is no expectation that the House will focus on long-term matters during the legislative process.
Impact on policy outcomes	The legislative process deeply influences policy outcomes, though the practice of examining legislation does not itself impose a long-term lens.
Durability	
Broad political support for scrutiny model	The legislative process is well established, but with flexibility to facilitate or impede bills according to political circumstances. It does not encourage the development of durable political consensus at an early stage in the policy process.

Providing a government

The government is formed based on assurances received by the Governor-General as to where majority support lies in the House.⁶² The House does not ‘elect’ the government, though its support for the government is tested periodically, usually through set-piece debates on confidence motions. The best-known of these is the Budget, which is part of the financial cycle. This section focuses on two other procedures for major debates that involve the government’s entire programme and underscore the House’s function of providing a government: the Speech from the Throne and Address in Reply debate; and the Prime Minister’s statement.

Speech from the Throne and Address in Reply debate

At the outset of a term of Parliament,⁶³ members of the House process into the former Legislative Council Chamber to hear the Governor-General deliver the Speech from the Throne, which describes

⁶² Cabinet Office (2017) *Cabinet Manual*. Wellington: Department of Prime Minister and Cabinet. <https://dpmc.govt.nz/sites/default/files/2017-06/cabinet-manual-2017.pdf>, paras 6.42–6.45.

⁶³ In theory, the Speech from the Throne occurs at the start of each ‘session’ of Parliament; in former times, sessions were shorter, usually resulting in a State Opening of Parliament each year. Now the invariable practice is for every term of Parliament to be a single session. The debate on the Prime Minister’s statement now takes place in most years, while the Speech from the Throne is delivered only when Parliament opens after a general election.

how the government intends to exercise its freshly won mandate in the next three years. The Speech from the Throne may lay out the government's values and priorities, and major policy objectives for the parliamentary term ahead. It tends to give some detail about the government's immediate plans for implementing election promises. The speech can also outline the arrangements reached by parties for how they will govern together or support the government. Following the speech, the MPs return to the House and debate its content through a motion to adopt an 'Address in Reply' to the Speech from the Throne. The Address in Reply debate is the vehicle for most new MPs to deliver their 'maiden' speeches, which can be particularly thoughtful expositions of their background and philosophy, as well as their insights into where society is heading.

Clearly, the Speech from the Throne is an opportunity for the government to articulate its vision for the future, and the complex issues and long-term outcomes that it intends to pursue. However, the content of the speech cannot be regulated to oblige particular types of content, for example, the inclusion of future-focused material, for several reasons. First, the House cannot dictate to the Sovereign about what to include in the speech; while it is recognised and provided for in the House's rules, the Speech from the Throne is delivered in the exercise of a Royal prerogative, that is, the summoning of the Parliament.⁶⁴ Second, the speech is just that: an oral address that is necessarily limited in the detail it can provide. While the speech can be lengthy, this is because it usually covers the whole breadth of government activity and policy; particular matters can receive only succinct treatment in the speech. Third, the timing of the Speech from the Throne, at the State Opening of Parliament, leaves little opportunity – after the general election, completion of negotiations for forming the government, and swearing-in of ministers – to conduct foresight and set long-term objectives meaningfully.

Prime Minister's statement

The Prime Minister's statement and the surrounding procedure take place on the first sitting day of each calendar year, except when that first sitting day is an Opening of Parliament or if it is within three months from the start of the Address in Reply debate.⁶⁵ At the start of that sitting day, the Prime Minister presents the statement in the form of a paper, which is published under the authority of the House. The Prime Minister then moves a motion relating to the statement, which begins a 13-hour debate.⁶⁶ The motion invariably is treated as a confidence motion – a test that the government continues to enjoy the House's confidence and thus is entitled to remain in office.

While the Prime Minister's statement is not explicitly a report on long-term issues, it tends to be aspirational and to include future-focused expressions of values, policies and objectives. The most recent Prime Minister's statement included references to "a new approach to leadership, focusing on long-term issues", the need for ministers and departments to demonstrate "that their Budget bids lead to intergenerational benefits", setting "a target of a net zero carbon emissions economy by 2050" and shifting the work of the public service towards being "one joined up system to tackle the big, complex challenges facing New Zealand". Several targets are set out for 10 years or more, with some specific policies to support them.⁶⁷

It would not be a major shift, then, for the Prime Minister's statement to be formalised as a document that includes a long-term outlook, in addition to stating the government's current political priorities. The House's Standing Orders indicate the nature of the Prime Minister's statement: it reviews "public affairs" and outlines "the Government's legislative and other policy intentions for the next 12 months".⁶⁸ The statement is entirely a feature of parliamentary procedure, and is not provided for in a statute. It is thus within the House's authority to suggest further elements to include in the statement, though the content of the statement would always be expected to reflect the political imperatives of the Prime Minister of the day. The practice of presenting the Prime Minister's statement as a paper means that it can include detail and contextual information that is not possible to cover in a speech.

⁶⁴ Harris & Wilson, *Parliamentary practice in New Zealand*, above n 32, p 170.

⁶⁵ SO 354(1) and (4).

⁶⁶ SO 355 and Appendix A.

⁶⁷ Prime Minister's statement, Rt Hon Jacinda Ardern, Prime Minister, 12 February 2019, J.8.

⁶⁸ SO 354(1).

If the Prime Minister’s statement were required to include information about long-term matters, that information (or the statement as a whole) could be referred to the Governance and Administration Committee for consideration. The ensuing procedure would need to be developed, but it could involve a minister attending on the Prime Minister’s behalf to discuss the government’s approach to anticipatory governance.

Table 5.4 contains an assessment of how these procedures align with relevant indicators.

Table 5.4: Summary assessment of current performance against relevant indicators – providing a government

Indicator	Assessment
Political and public engagement	
Regular plenary debate of long-term issues	Long-term issues are likely to be mentioned in the Prime Minister’s statement, but this is not required. The statement is subject to a major annual debate.
Public awareness of parliamentary scrutiny of long-term issues	The Prime Minister’s statement receives substantial coverage as a mechanism for the government to announce important initiatives and policies to be dealt with in the year ahead. However, it is not regarded as a mechanism for scrutiny of long-term issues.
Robustness	
Parliamentary rules embedding procedural triggers for scrutiny of long-term issues	The Prime Minister’s statement is a procedure embedded in parliamentary rules, but those rules specify the statement’s ambit as the next 12 months and do not include long-term issues.
Impact	
Measurable long-term policy objectives, targets and monitoring, reported to House	The Prime Minister’s statement can include measurable long-term policy objectives and targets, but this is not required.

Scrutinising and controlling government

The House has evolved several different mechanisms for overseeing and testing the government’s use of its executive powers. The most well-known forms – questions and inquiries – arise from the House’s inherent privilege to obtain the information it needs to hold the government to account. Others flow from formal accountability mechanisms set out in statutes. For example, the annual financial cycle is closely tied to provisions in the Public Finance Act 1989 that require particular information to be presented to the House, and for public spending to be appropriated by Parliament.

Oral questions and written questions

About 1,050 oral questions are asked to ministers in the House during an average year,⁶⁹ and each of those questions may be followed up by four or five supplementary questions at the discretion of the Speaker.⁷⁰

⁶⁹ The Standing Orders indicate that a year should comprise about 90 sitting days, though on at least two of those days (the day of the Prime Minister’s statement and Budget day), the House will omit question time. Urgency can affect the availability of question time, although in recent years urgency has been less frequent, and sometimes oral questions have been arranged during urgency anyhow. In 2018 the number of oral questions was relatively high, at 1,126 (735 NZPD 9154, Speaker’s adjournment speech).

⁷⁰ Parties are allocated supplementary questions on a proportional basis and are able to use them as they see fit. Often opposition parties deploy their supplementary questions to follow up questions asked by their party leaders, and also questions asked by their party colleagues, with fewer used to enquire about issues raised by questions lodged by government members.

Question time is arguably the procedure of the House that enjoys the highest level of public awareness, with excerpts frequently included in media reports. Less obvious, but equally important, is the procedure for written questions to ministers,⁷¹ which is transacted through the publication of questions and replies on the Parliament website. Unlike oral questions, written questions are not limited: MPs can ask as many as they wish, and in 2018 more than 40,000 were lodged.⁷²

MPs can ask questions about any matters for which the minister concerned is responsible. Limitations apply, though, to the degree to which current ministers can be held to account for decisions and performance of former ministers and governments:

The Government is not considered by the House to be a single, continuous entity. The defeat of a Government in an election marks the end of one administration and the commencement of another. Ministers in the Government of the day are not responsible for the activities of the previous administration.⁷³

This approach is both principled, in that each new government has its own mandate, and pragmatic – without such an approach, question time would be even more difficult to manage. However, its corollary is that a current government is not accountable for results that only become manifest when a later government is in power. This conundrum sits at the heart of the problem of parliamentary scrutiny of long-term governance.

On the other hand, current ministers can be asked about the quality and extent of their anticipatory governance. Ministers are responsible for – and so can be questioned about – their receipt of reports or advice, their decisions that affect long-term outcomes, and the extent to which they have made the effort to anticipate and plan for emerging trends and risks. They can also be asked about what steps they have taken to set targets and put in place specific measures to achieve them, and the progress that has been made. This ability to drill incessantly into the concrete plans and actions of the government means that parliamentary questions can play an important part in holding today's government to account for its impact on tomorrow.

A robust quantitative analysis of the use of questions to scrutinise long-term issues has not been undertaken for this report. However, it is fair to say that oral questions are regularly used to probe the government's progress towards long-term objectives. In particular, some questions seek to test whether aspirational election promises about future outcomes are being adequately delivered. In February and March 2019, questions repeatedly canvassed progress in important commitment areas such as KiwiBuild targets for building affordable homes, the planting of one billion trees, the tackling of climate change, and light rail in Auckland.

The procedures for oral questions and written questions work in combination to enable the opposition to scrutinise the precise nature of the government's commitments, whether they are meaningful and whether real short-term progress is being made towards long-term targets. For example, since November 2017, when the Government announced its target of building 100,000 KiwiBuild homes in 10 years,⁷⁴ more than two oral questions per sitting week, on average, have been addressed to the Minister for Housing and Urban Development in relation to KiwiBuild, each question followed up with a series of supplementary questions, as the Opposition has explored the Government's progress in establishing the scheme and installing homeowners in affordable new homes.⁷⁵ Many questions delved into the detail of the programme, particularly testing the validity of the Government's figures. These efforts in the House have been underpinned by hundreds of written questions,⁷⁶ which have drilled down to highly specific information about housing developments associated with KiwiBuild. From time to time, the Leader of the Opposition has

⁷¹ Questions can also be asked of other MPs (i.e., non-ministers) about business in their charge, though such questions are a tiny minority of the overall total of questions asked.

⁷² (2018) 735 NZPD 9154 (Speaker Mallard).

⁷³ (2016) 715 NZPD 12393 (Speaker Carter).

⁷⁴ (2017) 725 NZPD 15 (Speech from the Throne).

⁷⁵ Out of 1,307 oral questions asked between 9 November 2017 and 19 December 2018, 94 were addressed to the Minister for Housing and Urban Development and included discussion of KiwiBuild.

⁷⁶ During the same period, 1,887 written questions were addressed to the Minister for Housing and Urban Development about KiwiBuild.

highlighted his party's scepticism about the programme's progress, and the robustness of the Government's figures, through supplementary questions to the Prime Minister.

Questions are not a systematic means of keeping track of long-term issues, as they are generated in proportion to the political inclination of MPs. However, their sheer number means that all portfolio areas are subject to constant, direct scrutiny. While oral questions tend to focus on the higher-profile matters, written questions give each opposition spokesperson an untrammelled right to seek information from ministers. A vast number of written questions relate to past performance, current activities, short-term results or administrative minutiae, but some ask about long-term issues or contribute to an overarching narrative about emerging trends. Questions are a vital tool for testing government objectives, policies, targets and performance.

MPs are free to pursue topics and lines of questioning, with only general rules placing restrictions such as that MPs need to direct questions at matters for which the minister they are questioning is responsible. It is important in principle not to impinge on that freedom of questioning, for example by carving out a proportion of questions to be devoted to long-term issues. However, there may be scope for occasional, additional question sessions focusing on matters of long-term governance, either in the House or as part of select committee procedures. These additional question sessions could be arranged in conjunction with a debate on an associated topic, such as an inquiry report.

Fiscal statements

Some procedures in the House's rules purposefully provide a future focus. These procedures were instituted following statutory changes. First, the Fiscal Responsibility Act 1994 instituted a requirement for a Budget policy statement to be published by 31 March every year and presented to the House. In the statement, the government was required to state its broad strategic policies for the Budget and to specify its long-term objectives for fiscal policy.⁷⁷ That same Act also provided for fiscal strategy reports, presented along with the Budget, to include (among other things) projections for at least 10 years of trends illustrating likely future progress towards achieving longer-term fiscal objectives as set out in the Budget policy statement.⁷⁸ The Act went so far as to require a select committee to consider the Budget policy statement, fiscal strategy reports and other reports under the Act.⁷⁹ The fiscal responsibility provisions became important elements of administrative law and, in 2004, they were transferred into the Public Finance Act 1989 (see also chapter 3).⁸⁰ When this happened, the fiscal strategy report provisions were amended to strengthen the requirement for reporting the government's long-term objectives for fiscal policy, for the purpose of adjusting the Budget policy statement so that it focuses more on the government's Budget priorities.⁸¹ Also introduced was a requirement for a statement on the long-term fiscal position to be presented to the House every four years. This statement, the contents of which are the responsibility of the Secretary to the Treasury, sets out the long-term fiscal position relating to a period of at least the next 40 financial years.⁸²

The Public Finance (Fiscal Responsibility) Amendment Act 2013 stipulated that an investment statement must be presented to the House at least every four years. The statement, which is prepared by the Treasury, must include a forecast of how the Crown's significant assets and liabilities are expected to change in value in each of the following two or more financial years. A first investment statement was prepared in 2010, before the statutory requirement was enacted. In signing off on the investment statement, Hon Bill English, Minister of Finance, signalled his hope that such statements would give rise to "greater transparency about the Government's management of its material assets and liabilities, and

⁷⁷ Fiscal Responsibility Act 1994, s 6.

⁷⁸ *Ibid*, s 7.

⁷⁹ *Ibid*, s 16.

⁸⁰ Public Finance Act 1989, ss 26M and 26I, respectively.

⁸¹ *Ibid*, s 26J. See Finance and Expenditure Committee (2005) *Budget Policy Statement 2005*. AJHR I.3C, p 4.

⁸² Public Finance Act 1989, s 26N.

the challenges we face looking ahead”.⁸³ The investment statement in 2010 included a forecast balance sheet out to 2015. Further investment statements were prepared in 2014 and 2018. The latter statement included “stress testing” of the resilience of the government’s balance sheet based on three significantly adverse scenarios, and importantly also discussed the “distant horizon” in the context of the new Living Standards Framework.⁸⁴

The statutory provision previously contained in the Fiscal Responsibility Act 1994 for a select committee to consider the documents was eventually repealed, and the procedures are now part of the Standing Orders. Along with the Budget policy statement and other reports, the statement on the long-term fiscal position and the investment statement are referred to the Finance and Expenditure Committee.⁸⁵

Considering the statement on the long-term fiscal position

The Finance and Expenditure Committee has engaged substantively with long-term issues when considering these fiscal statements.

In 2013, the committee found that the statement on the long-term fiscal position contained useful projections of different fiscal policy settings, though the committee agreed with the OAG that more analysis could have been provided of alternative policy settings and how they would impact on the economy.⁸⁶ Of particular note for the committee was the Treasury’s engagement with the public, which covered groups such as experts, journalists and young people and included a competition for high school students about the long-term fiscal challenges facing the country. The committee also noted that the OAG had found the statement was robustly supported by research papers and expert input. The OAG made a number of suggestions about how to develop the analysis provided in the statement, and the committee endorsed these.

When the next statement on the long-term fiscal position was considered in 2016, the Finance and Expenditure Committee’s report was less substantial, largely recounting significant observations as they arose from the statement. The committee briefly discussed the reliability of the projections, given their 40-year span, and then commended the Treasury for its efforts to spark public debate about future public spending paths.⁸⁷

In a subsequent report, the committee picked up on the OAG’s analysis of the 2016 statement, which was critical of the Treasury for over-emphasising demographic assumptions while paying less attention to other challenges and possible shocks. A number of the Auditor-General’s recommendations for improving the statement were echoed by the committee.⁸⁸

Investment statements

Parliamentary scrutiny of investment statements began slowly. In 2010 the Finance and Expenditure Committee’s consideration of the inaugural investment statement was rolled into its report on the Budget policy statement 2011, with the committee providing little more than a summary of the investment statement’s contents. The approach did not improve following the presentation of the Treasury’s 2014 investment statement: in what seems to have been an oversight, the committee did not consider the statement at all.

⁸³ Hon Bill English (2010) *2010 Investment Statement of the Government of New Zealand*. AJHR B.8, p ii. <https://treasury.govt.nz/sites/default/files/2010-12/is10.pdf>

⁸⁴ Treasury (2018) *He Puna Hao Pātiki 2018 investment statement: Investing for wellbeing*. AJHR B.8. <https://treasury.govt.nz/sites/default/files/2018-03/is18-hphp-wellbeing.pdf>

⁸⁵ SO 336. The statement on the long-term fiscal position must be reported within six months (SO 336(3)), and the deadline for the investment statement is two months (SO 336(4)).

⁸⁶ Finance and Expenditure Committee (2013) *Statement on the long-term fiscal position*. https://www.parliament.nz/en/pb/sc/reports/document/50DBSCH_SCR5994_1/statement-on-the-long-term-fiscal-position-july-2013

⁸⁷ Finance and Expenditure Committee (2016) *Statement on the long-term fiscal position*. https://www.parliament.nz/en/pb/sc/reports/document/SCR_72564/statement-on-long-term-fiscal-position-november-2016

⁸⁸ Finance and Expenditure Committee (2018) *Reports of the Controller and Auditor-General*, p 3. https://www.parliament.nz/resource/en-NZ/SCR_80108/75956f5ac0e38acba2e118775bfff67bf9808191

In contrast, the 2018 investment statement was well received and subjected to considerable discussion.⁸⁹ The Finance and Expenditure Committee questioned the assumptions and methodology underpinning the Treasury's analysis, particularly examining the "stress testing" models that were used to quantify a safe space for government fiscal policy. For example, the committee wondered if the consequences of the scenario of a major Wellington earthquake were underestimated, and whether indirect costs of a foot and mouth outbreak were factored in. The committee suggested including more information about such assumptions in future statements. Also in the report, the committee noted the introduction of the Living Standards Framework and critiqued a number of workstreams that the Treasury outlined in the statement for improving long-term fiscal decision-making.

Variable level of engagement with fiscal statements

The Finance and Expenditure Committee's consideration of the statement on the long-term fiscal position, and of the investment statement, provides a nice vignette about parliamentary scrutiny of long-term governance. When a positive trigger was absent, no scrutiny took place. When the scrutiny was combined and reported with other business, in an apparent box-ticking exercise, it brought little substantive discussion. Yet, when a statement was presented that was accessibly designed and provided a holistic view of long-term issues using diverse frames of reference (the various elements of the Living Standards Framework), the select committee responded with a substantive discussion. The Treasury received valuable political feedback and the reward of successful parliamentary engagement with long-term matters.

Estimates – eyes on a one-year horizon

Scrutiny and control of the government's use of public money and resources is a fundamental function of the House. All public spending requires parliamentary approval, which is obtained by the passing of a special type of bill, an appropriation bill. 'Appropriations' are the basic units of approval, in that they precisely state the amount of money that is approved by Parliament for a specific purpose or scope. The details are set out in parliamentary papers called Estimates of Appropriations, which are presented when the main appropriation bill is introduced and the Budget is delivered; the mechanism is for the appropriation bill to approve the Estimates of Appropriations. Within the Estimates volumes, appropriations are grouped into 'Votes', which are administered by a single department. Each appropriation is the responsibility of one portfolio minister, though several ministers can be responsible for different appropriations within a Vote.

This process must occur at least once for each financial year, though the norm is for a second appropriation bill to be passed that approves any variations from the spending that was approved in the main appropriation bill. These variations are described in a volume of 'Supplementary Estimates'.

Annual appropriation is an important concept, as it ensures the government must regularly submit its plans for Parliament to oversee and approve. This timing also presents a problem, in that it provides a default one-year horizon. This does not mean that the government can plan only one year ahead; on the contrary, Estimates documents show the total 'baselines' for each type of appropriation for the Budget year and each of the next three financial years. To maintain or improve the country's financial position, governments clearly must map out their fiscal approach over a number of years (see above). An appropriation bill can even include approval of 'multi-year appropriations', that is, appropriations for which Parliament's approval is granted over a period longer than one year but no longer than five years (the actual period is specified in each case).⁹⁰

The Estimates procedure, then, is naturally forward-looking, even though much of the process occurs after the financial year concerned has already begun. It can involve discussions about the government's plans to invest in various interventions and initiatives, sometimes over a longer period. For example, in respect of the 2018/19 Estimates, the Economic Development, Science and Innovation Committee briefly

⁸⁹ Finance and Expenditure Committee (2018) *He Puna Hao Pātiki, 2018 investment statement: Investing for wellbeing*. https://www.parliament.nz/resource/en-NZ/SCR_78238/194548b35e2ff9fd465d79c208f3163bafbe3bc6

⁹⁰ For example, in 2018, the main appropriation bill approved nearly \$100 million for the four years ending on 30 June 2022, for New Zealand to host Asia-Pacific Economic Cooperation in 2021. Appropriation (2018/19 Estimates) Act 2018, Schedule 2; Estimates (B.5) vol 4, p 97.

indicated how the Government intended to raise research and development spending by businesses over 10 years, from about 1.3 percent of gross domestic product (GDP) to 2 percent. The committee also described its interactions with the Minister for Energy and Resources about the Government's goal of 100 percent renewable electricity generation by 2035, the expected doubling of demand for electricity by 2050 and the four-year appropriation for the Warmer Kiwi Homes insulation programme. Another topic was the Government's intended allocation of \$1 billion per year, for three years, to the Provincial Growth Fund.⁹¹ Such passing references signal that a degree of political interest in long-term matters exists, but it does not amount to serious scrutiny.

A significant constraint, then, is that the appropriation bill and Estimates are generally connected with a particular financial year. This frames the examination of Estimates by select committees, which is strongly focused on the financial year in question, and discussion of long-term issues is usually fleeting. Where spending is spread over a number of years, committees may simply produce a description of the government's intentions, without much critical analysis. Committees have little time during the Estimates to explore the particular outcomes sought, how they will be measured over time, what the milestones will be for checking progress or what major risks and vulnerabilities are being addressed, how costs and benefits will be identified and made transparent, and how non-financial forms of capital will be affected. Estimates reports thus tend to provide narratives about the political response of MPs to particular policies and quantum of money, rather than an exercise of scrutinising anticipatory governance. There is considerable scope for enhancing select committee scrutiny with a longer view, for example: by setting out more clearly in Estimates documents how spending proposals align with intended long-term outcomes; by enabling consideration of Estimates relating to programmes that address complex, cross-sector policy objectives; and by providing better data about multi-year trends and performance.

Annual reviews – focus on agency performance

Government departments, Crown entities, State-owned enterprises, Officers of Parliament and other public organisations are required to provide annual reports for presentation to the House. Many of these annual reports are immediately dispatched for select committee scrutiny as part of the 'annual review' process.⁹² The remit for select committees carrying out annual reviews is the performance of the agencies concerned in the previous financial year and their current operations. Members value the opportunity to question agency chief executives (and board chairpersons, where applicable) directly about the service performance of their organisations. Committees receive advice from the OAG, which is built on the results of the audits of the agencies and includes suggestions about possible lines of enquiry. Committees adopt many written questions and the agencies' responses can generate great volumes of information, mainly about administrative matters. Under the House's rules, select committees are required to report to the House on the annual reviews by the end of March each year.

Annual reviews end the financial cycle, though they do not 'close the loop' on the Estimates. Departments and other agencies that receive appropriations of public money are required to provide information about the 'results' of these appropriations, which creates a potential opportunity to report on progress towards desired outcomes – to articulate what helpful consequences for New Zealand have flowed from the money that Parliament has approved to spend. While most agencies that are required to provide information about the results of appropriations tend to include it in their annual reports, this information does not feature prominently during hearings or in reports on annual reviews.

Annual reviews focus on agency performance rather than progress towards strategic objectives. Yet select committee reports on annual reviews are not entirely backward-looking. Committee reports frequently refer to agencies' strategic initiatives and even express interest in forward-looking pieces of work that have been initiated or completed during the year. The following are examples of reports of select committees on the 2017/18 annual reviews that included discussion of strategic work by agencies:

⁹¹ Economic Development, Science and Innovation Committee (2019) *2018/19 Estimates for Vote Business, Science and Innovation*.

⁹² Before 2014, annual reviews were called financial reviews.

- The Social Services and Community Committee described work by the Ministry for Pacific Peoples to consult Pacific communities across the country on its report *Lalanga Fou*. This work explored “Pacific values and beliefs to determine a shared vision for Pacific peoples in Aotearoa” and identified four primary goals for the ministry.⁹³
- The Māori Affairs Committee heard about *He Mahere Whakapuaki Reo*, the combined strategy for the Māori media sector for the three years to 2021, which was the outcome of a series of hui for the Māori broadcasting sector to discuss its future.⁹⁴ The committee also learnt about a continuum that Te Māngai Pāho intends to use to measure its success at shifting people’s attitudes to te reo Māori to ensure the language will be passed on to future generations.⁹⁵
- The Primary Production Committee briefly considered the One Billion Trees 10-year programme and its effects on rural employment.⁹⁶
- The Economic Development, Science and Innovation Committee mentioned work by Callaghan Innovation on opportunities for New Zealand from blockchain technology.⁹⁷
- The Economic Development, Science and Innovation Committee and the Transport and Infrastructure Committee both asked about a Transpower report that looked at the future of electricity supply and demand, and future technology, and that projected the doubling of electricity generation by 2050.⁹⁸
- The Governance and Administration Committee was interested in the rebuilding of the Earthquake Commission Natural Disaster Fund in the period to 2030.⁹⁹
- The Transport and Infrastructure Committee’s report on the New Zealand Transport Agency included a lengthy discussion on the Government’s Policy Statement on Land Transport for the period 2018 to 2028.¹⁰⁰

On the whole, select committees’ treatment of such future-focused issues was relatively brief and confined to citing current work by agencies, rather than providing a critical evaluation of long-term governance. But it demonstrates that committees are interested in long-term issues that are brought to their attention. The Standing Orders relating to annual reviews could be amended to increase the prominence of results of appropriations, so as to give committees a sense of progress made towards long-term objectives and outcomes, in addition to the focus on agency performance. This could be done in conjunction with possible changes to the Public Finance Act 1989 to improve reporting on such outcomes-related progress (see also chapter 4). This broader approach, which would be consistent with the new emphasis on wellbeing (including the wellbeing of future generations), could be facilitated through a possible shift to reports that deal with sectors as a whole as well as reporting on individual agency performance.

Strategic intentions not scrutinised

Another forward-looking provision of the Public Finance Act 1989 is interesting here, precisely because it does not result in active parliamentary scrutiny. Each department is required to provide its responsible minister with a document containing information about the department’s strategic intentions for the next financial year and at least the following three financial years.¹⁰¹ Such a document, which normally is known as a ‘statement of strategic intentions’, must be provided at least once in every three-year period, or within six months of a significant change in the nature or scope of the department’s functions, or at any time required by the minister. Strategic intentions documents cannot be provided in the three months before Budget day.¹⁰²

⁹³ Social Services and Community Committee (2019) *2017/18 Annual review of the Ministry for Pacific Peoples*, p 4.

⁹⁴ Māori Affairs Committee (2019) *2017/18 Annual review of Te Reo Whakapuaki Irirangi (Te Māngai Pāho)*, pp 3 and 11.

⁹⁵ *Ibid*, pp 4 and 12.

⁹⁶ Primary Production Committee (2019) *2017/18 Annual review of the Ministry for Primary Industries*, p 8.

⁹⁷ Economic Development, Science and Innovation Committee (2019) *2017/18 Annual review of Callaghan Innovation*, p 5.

⁹⁸ Economic Development, Science and Innovation Committee (2019) *2017/18 Annual review of the Commerce Commission*, p 4; Transport and Infrastructure Committee (2019) *2017/18 Annual review of the Electricity Authority*, p 7.

⁹⁹ Governance and Administration Committee (2019) *2017/18 Annual review of the Earthquake Commission*, p 5.

¹⁰⁰ Transport and Infrastructure Committee (2019) *2017/18 Annual review of New Zealand Transport Agency*, pp 4–6.

¹⁰¹ Public Finance Act 1989, s 38.

¹⁰² Public Finance Act 1989, s 39(2). This prohibition only applies to the Budget for the first full year to which the strategic intentions information relates.

In practice, statements of strategic intentions are nearly always presented after the forward-looking Estimates process is complete. Most are presented in the period from October to March during which select committees are conducting the annual reviews, which are focused on performance in the previous financial year and current operations. Moreover, statements of strategic intentions are not referred to select committees under the Standing Orders, unlike a number of other documents required under the Public Finance Act 1989. These documents, which essentially are designed for departments to explain how they intend to achieve or contribute to their strategic objectives, therefore fail to appear on the radar of select committees.

Case study: New Zealand Biodiversity Strategy

To provide effective scrutiny of long-term governance, the scrutiny model must itself be sustained and consistent over long periods – it must be durable, one of the indicators discussed above. This begs the question: can the House’s existing procedures provide sustained scrutiny in the absence of purpose-built procedural triggers? What is the House’s track record for oversight of long-term strategies, where such strategic programmes have in fact been undertaken by the government? This section explores the example of the New Zealand Biodiversity Strategy, a long-term (20-year) strategy adopted by the Government in 2000, and considers whether the House and its committees managed to provide sustained, effective scrutiny.

Development and committee critique

In September 1993, New Zealand ratified the Convention on Biological Diversity (CBD). This entailed a commitment to protect and nurture New Zealand’s biological diversity and to use it sustainably and equitably. In 2000, as part of its obligations under the CBD, the Government produced the New Zealand Biodiversity Strategy, a 20-year plan that established “a strategic framework for action” to preserve and manage the country’s biodiversity until 2020.¹⁰³

During its development, and in its first five years of operation, the strategy received regular scrutiny from the relevant subject select committee as part of Parliament’s routine financial scrutiny procedures.¹⁰⁴ In the years before the strategy was published, reports on Estimates for Vote Conservation noted its development. These reports acknowledged that New Zealand biodiversity was under threat and pointed out the difficulty of measuring progress in this area. The lack of indicators that can be used to measure progress against targets would become a frequent criticism from the select committee.¹⁰⁵

When the strategy was finalised, it received a funding package in Budget 2000 that saw funding for work to implement the strategy, across multiple different appropriations, increase every year for five years. However, the Local Government and Environment Committee was sufficiently unhappy with the lack of detail provided about expenditure under the strategy that it took the extraordinary step of reporting that it would not recommend approving the Estimates for Vote Conservation until it received better information. The Vote was referred back to the committee, which promptly received a more fulsome response from the department.¹⁰⁶

¹⁰³ Department of Conservation (2000) *New Zealand Biodiversity Strategy 2000–2020*. Wellington: Department of Conservation. <https://www.doc.govt.nz/nature/biodiversity/nz-biodiversity-strategy-and-action-plan/new-zealand-biodiversity-strategy-2000-2020/>

¹⁰⁴ The Transport and Environment Committee and later the Local Government and Environment Committee.

¹⁰⁵ Transport and Environment Committee *Report on Estimates Vote Conservation 1997/98, 1998/99 and 1999/2000*.

¹⁰⁶ Local Government and Environment Committee (2000) *Report on Estimates Vote Conservation 2000/01*. [1999–2002] AJHR I.19A, pp 39–40.

The following year, the committee queried an unclear relationship between the strategy and the department's high-level strategic direction on the one hand, and the department's own performance objectives on the other.¹⁰⁷ Subsequently, when reviewing the department, the committee noted poor performance in some of the strategy's funding areas, such as 1080 coverage and bird rescue programmes.¹⁰⁸ In 2003, the committee considered the strategy to be "at a critical stage", and noted, drawing on its own historical criticisms, that:

Measuring the department's progress towards achieving the outcome of the Biodiversity Strategy is a critical issue, particularly given that further funding may be contingent on evidence that the strategy is achieving the desired outcomes.¹⁰⁹

The strategy was subsequently discussed in most of the committee's Estimates and financial review reports until 2005. In examining that year's Estimates, the committee concluded that the department was failing to turn the tide of biodiversity decline and noted that an independent five-yearly review of the strategy was due later that year.¹¹⁰

Independent review

That independent review, commissioned by the Department of Conservation, found funds associated with the strategy had significantly strengthened existing initiatives and helped "turn the tide" in some specific contexts; however, broader trends still required more attention. The report also commented on an "overdue need to complete and implement a comprehensive system of environmental indicators and environmental performance standards is the importance of developing monitoring and reporting systems".¹¹¹ These criticisms echoed issues raised by the committee over a number of years.

End to scrutiny

Yet the committee did not discuss the review's findings. In fact, since 2005 the select committee has not subjected the strategy to detailed scrutiny. The strategy was mentioned in passing from time to time,¹¹² but no further scrutiny of the strategy's implementation has taken place.

Adjustments to the implementation arrangements for the strategy may have affected the committee's failure to undertake ongoing scrutiny. Strategy funding became baselined after its first five years; that is, funding was not highlighted as associated with the strategy, but rather became business as usual. Although the Department of Conservation still had a coordination role, funding for the strategy was spread out across various departments. The strategy was still mentioned in documents for Vote Conservation's appropriations, but the mentions were mainly historical, discussing the increase over the first five years rather than future targets.

Another factor may have been an almost complete change in the membership of the Local Government and Environment Committee after the 2005 general election.¹¹³ Such turnover of committee membership is not unusual in the parliamentary context, and the resulting impact on the committee's collective memory can be mitigated by institutional support. But, whatever the reason, select committee scrutiny of the strategy's implementation disappeared after the 2005/06 Estimates. Political engagement with the strategy seems to have virtually ceased, limited to occasional, sporadic mentions in written questions.¹¹⁴

¹⁰⁷ Local Government and Environment Committee *Estimates Vote Conservation 2001/02*. [1999–2002] AJHR I.19B, pp 81–92.

¹⁰⁸ Local Government and Environment Committee (2003) *2001/02 Financial review of the Department of Conservation*.

¹⁰⁹ Local Government and Environment Committee (2003) *2003/04 Estimates Vote Conservation*.

¹¹⁰ Local Government and Environment Committee (2005) *2005/06 Estimates Vote Conservation*.

¹¹¹ *Ibid.*

¹¹² For example, a report mentioned that marine protected areas were part of the strategy's goals: Local Government and Environment Committee (2008) *2008/09 Estimates Vote Conservation*.

¹¹³ Only one member, Hon Dr Nick Smith, who had been on the committee at the dissolution of Parliament, continued to be a member following the election.

¹¹⁴ A total of four oral and 15 written questions mentioned the strategy in 15 years. For example, Written question 35684 (2010), Gareth Hughes to the Minister of Conservation, asked whether the Government aimed to reach a certain target of protected marine environments, a target set by the strategy.

Auditor-General's review of biodiversity efforts

In 2012 the OAG reviewed an aspect of the Department of Conservation's biodiversity work and concluded that, overall, the department was "not winning the battle".¹¹⁵ A theme of the report was that the department needed to improve its collection and reporting of information so it could monitor changes and understand how effective its interventions were. While the review did not set out to assess the strategy's operation or the department's biodiversity work programme as a whole, it was notable how infrequently the strategy was mentioned in the OAG's report. As a 20-year plan that had been operating for over a decade, the strategy and its operation could be expected to have had a major influence over how the department's biodiversity work programme was prioritised. Instead, the report noted that, "Although The New Zealand Biodiversity Strategy (the Strategy) has not been set aside or replaced, our audit research confirmed that the Strategy is considered historical ...".¹¹⁶

The OAG's report made a series of recommendations and was noted in a pro forma report by the Local Government and Environment Committee.¹¹⁷ In 2016 the OAG followed up with a report on the Department of Conservation's progress in responding to its recommendations,¹¹⁸ which the Local Government and Environment Committee also responded to.¹¹⁹ However, neither the follow-up report nor the committee's response discussed the biodiversity strategy.

Conclusion

The New Zealand Biodiversity Strategy still exists – after all, New Zealand remains a party to the Convention on Biological Diversity. Currently, as it reaches the end of its 20-year term, the strategy is under review. Meanwhile, grave concerns are being raised about biodiversity outcomes, as many species continue to move towards extinction in New Zealand.¹²⁰

During the strategy's development and initial implementation, it received substantial parliamentary scrutiny, with the relevant select committee particularly interested in how the department managing the strategy was measuring progress. However, when the select committee's membership changed and funding for the strategy became part of baseline funding, this annual avenue of scrutiny ended. Biodiversity remained a topic of interest, being frequently discussed in Estimates reports and annual reviews. However, the committee's early questions about the strategy were never followed up. In short, the New Zealand Biodiversity Strategy highlights a lack of effective, consistent parliamentary scrutiny of a large, complex and long-term project. It also points to the potential benefit that could derive from implementing a statutory basis for a consistent approach to such strategies across government, linking to a procedural trigger for sustained select committee scrutiny of progress. This could be formally linked with the Estimates and annual review processes. Such mechanisms would encourage committees to follow up major strategies, programmes and issues over long periods.

¹¹⁵ Controller and Auditor-General (2012), *Performance audit report of Department of Conservation: Prioritising and partnering to manage biodiversity*, Wellington: Controller and Auditor-General, p 9.

¹¹⁶ *Ibid*, p 39.

¹¹⁷ Local Government and Environment Committee (2012) *Report on report from the Controller and Auditor-General, Department of Conservation: Prioritising and partnering to manage biodiversity, December 2012*.

¹¹⁸ Controller and Auditor-General (2016) *Department of Conservation: Prioritising and partnering to manage biodiversity – Progress in responding to the Auditor-General's recommendations*. Wellington: Controller and Auditor-General.

¹¹⁹ Local Government and Environment Committee (2016) *Report on report of the Controller and Auditor-General, Department of Conservation: Prioritising and partnering to manage biodiversity – progress in responding to the Auditor-General's recommendations 2016*.

¹²⁰ Ministry for the Environment and Statistics NZ (2019) *New Zealand's Environmental Reporting Series: Environment Aotearoa 2019*, www.mfe.govt.nz and www.stats.govt.nz; OECD (2017) *Third Environmental Performance Review*, http://www.oecd.org/environment/country-reviews/Highlights_OECD_EPR_NewZealand.pdf

Summary table

Table 5.5 provides an overall assessment of the House’s financial scrutiny procedures against relevant indicators.

Table 5.5: Summary assessment of current performance against relevant indicators – financial scrutiny

Indicator	Assessment
Political and public engagement	
Active committee scrutiny of long-term issues	Fiscal statements have potential to generate discussion of long-term issues, but committee engagement is patchy. Annual financial cycle procedures do not offer much opportunity for sustained or in depth discussion of long-term matters.
Regular plenary debate of long-term issues	Some arising from long-term fiscal statements and investment statements, which each occur at least every four years.
Public awareness of parliamentary scrutiny of long-term issues	Very little awareness of this work.
Public participation in framing long-term issues and outcomes	No opportunities available through financial scrutiny processes.
Robustness	
Parliamentary rules embedding procedural triggers for scrutiny of long-term issues	Procedural triggers for two long-term fiscal statements, but each of these occurs only every four years.
Parliamentary rules requiring regular cycles for scrutiny of progress against long-term objectives	None.
Adequate workload capacity of committees or other scrutiny bodies	Workload of committees affects depth of scrutiny and inhibits engagement with long-term issues. Committees acknowledge strategic programmes but, in the tight confines of the Estimates and annual review procedures, do not have much time to explore the robustness of such programmes.
Dedicated research and advisory support for MPs and committees	During financial scrutiny procedures, available advisory support from Officers of Parliament is not focused on scrutiny of long-term programmes.
Ready access to, or ongoing partnership with, independent expert advice about long-term issues	Independent advice (apart from Officers of Parliament) is not usually sought during financial scrutiny procedures.
Impact	
Strong government expectation of parliamentary scrutiny	Currently no expectation of scrutiny of long-term matters, aside from four-yearly fiscal statements.
Coherent statutory commitment devices	A few statutory commitment devices for fiscal matters set out in Public Finance Act 1989.
Measurable long-term policy objectives, targets and monitoring, reported to House	Strategic intentions reported to House but not referred to select committees or part of financial scrutiny procedures. Measurable objectives, targets and progress not normally reported to House as part of financial scrutiny procedures.

Clear accountability for stewardship	Financial scrutiny of agency performance does not specifically address stewardship.
Impact on policy outcomes	None discernible. In one case, specific and repeated criticisms by a select committee of lack of measures did not result in change to a strategy.
Follow-up mechanisms as part of scrutiny model	No formal follow-up mechanisms built into financial scrutiny model. Sustained scrutiny providing follow-up over a number of years is unlikely to result.
Durability	
Ongoing relevance of scrutiny model	Current public finance and public sector reforms potentially could be adjusted to facilitate better parliamentary scrutiny.

Briefings

One of Parliament's ad hoc methods of scrutiny is through select committee briefings and inquiries. Subject select committees can look into any matters that fall within their subject areas.¹²¹

Briefings on strategic objectives, programmes and progress

A briefing is essentially an item of business initiated by a committee to inform itself about various matters and potentially report to the House, but without the gravity of a fully fledged inquiry. Briefings occur with reasonable frequency and are a useful tool for a committee that wishes to engage more deeply with a particular matter.

This mechanism offers a means for select committees to request the attendance of officials to give evidence about long-term issues and what work is under way to address them. A recent example is an innovative joint briefing and report by the Health Committee and the Māori Affairs Committee on achieving the Smokefree 2025 goal. This piece of work spanned several months (from May to December 2018) and involved receiving expert evidence from relevant academics, scientists and non-governmental organisations, as well as the Ministry of Health. In scale, it resembled an inquiry, and the two committees agreed a number of recommendations to the Government about, for example, collecting data on smoking-related deaths and regulating vaping and e-cigarettes as a pathway for quitting smoking. In particular, the committees recommended that the Government "re-examine and prioritise the uncompleted recommendations from the 2010 Māori Affairs Committee inquiry...". This level of engagement and follow-up, with unanimous recommendations adopted by two committees, is a good example of the potential for select committee engagement in matters of long-term policy.¹²²

Inquiries

While matters can be referred to committees by the House, inquiries are typically initiated and scheduled by committees themselves, which set terms of reference and timetables in accordance with their own aspirations. Inquiries have the potential to scrutinise historical governance or make recommendations for future governance, or both.

Survey of inquiries

A survey of select committee reports on 30 inquiries, which were conducted from late 2011 to late 2018, found that seven included substantial consideration of long-term matters. The survey targeted discussion that took a long view on addressing issues or creating opportunities, particularly in inquiries that looked over the term of more than one Parliament and reports that discussed long-term matters. It examined

¹²¹ SO 189(2). The subject areas are set out in SO 188.

¹²² Health Committee and Māori Affairs Committee (2018) *Briefing on achieving the Smokefree 2025 goal for New Zealand [Kaupapa whakamōhio ki te ekenga o te whāinga Auahi Kore 2025 mō Aotearoa]*. https://www.parliament.nz/resource/en-NZ/SCR_82493/fdd4b1cdd5cc8e1f7a94e425465c124840a7381d

whether committees discussed creeping issues and the stewardship of government departments, exercised long-term forethought, and scrutinised long-term commitments and targets set out by the government or in international agreements. (It was not enough for a committee to simply mention a policy or problem that has long-term implications, given that by their nature most committee inquiries deal with issues that have or may have long-term ramifications; to meet the survey criteria, committees had to engage actively in long-term thinking.)

Only one report, an inquiry into the funding of specialist sexual violence social services, seriously scrutinised long-term governance around the issue the committee was concerned with, criticising funding instability and lack of leadership and long-term responsibility for the stability of the services in the public sector. Other committees tended to accept existing problems as a *fait accompli*, rather than investigating their underlying causes – whether they came about as a consequence of government action or whether governments could have acted earlier to prevent problems. As a consequence, committees were much more likely to make forward-looking recommendations than they were to take a retrospective view and discuss historical problems with governance.

Many reports that did not include substantial consideration of long-term issues did briefly acknowledge some long-term issues. For example, the 2016 report on the inquiry into captioning (supplying written captions for television programmes to help, among others, the deaf and hard of hearing) mentioned that lack of captioning leads young New Zealanders to miss out on social opportunities, which has long-term ramifications for their socialisation. However, acknowledgements of this nature were often little more than an aside in a report and usually did not result in specific recommendations with a long-term focus. It was also typical for reports to acknowledge or identify government targets around an issue, or internationally set targets New Zealand governments had committed to, without scrutinising progress against those targets.

Committee reports notably varied in rigour and depth. Some reports followed from substantial submissions and careful analysis by report writers with good knowledge and experience of the topic. It was not always clear what led a committee to have good resourcing for an inquiry – it could reflect a committee's level of interest or commitment or it could be due to external factors, such as a more or less busy period for committees and their staff or particularly effective advice. Committees that produced reports that considered the long term almost always had terms of reference that included long-term matters.

Select committee inquiries can be a weak mechanism for initiating policy changes. Government responses to select committee recommendations, even those contained in comprehensive and well developed committee reports, tend to be less than energetic. The typical response is for government to 'accept' all or most recommendations by identifying existing work it believes addresses or will address the recommendations. It appears that new policy directions only occasionally result from select committee inquiries. Exceptions may occur, however, particularly when reports align with government perspectives and current policy directions.

Box 5.1: Inquiries – Case studies

Inquiry into 21st century learning environments and digital literacy (Education and Science Committee, December 2012)¹²³

Summary: This inquiry was motivated by the rapid changes that new technologies were bringing to the education sector. The terms of reference discussed equity issues, infrastructure and access to technology as long-term issues. The report was forward-looking: it identified challenges and trends and then made recommendations for the future, rather than reviewing previous performance. One long-term recommendation noted that 21st century learning will require significant change across the sector and that such change demands leadership from Government.

Recommendations: The committee made 48 recommendations, about half of which could be interpreted as long-term in focus (ranging from increasing access to digital learning at school and in public libraries to considering the impacts of increasingly available technology on teachers' future work-life balance).

Comments: The inquiry report contained minimal independent analysis and relied heavily on the evidence from submitters.

Government response: The Government rolled some recommendations into existing policy work and established the 21st Century Learning Reference Group, which produced the report *Future-focused learning in connected communities*.

Inquiry into the determinants of wellbeing for tamariki Māori (Māori Affairs Committee, December 2013)¹²⁴

Summary: This inquiry focused on giving tamariki Māori a solid base to build their lives on and identified barriers to that goal. The terms of reference had a clear focus on broad, long-term change. The report recognised intergenerational, long-term barriers and discussed how early intervention can result in life-long benefits. Its recommendations were driven by a focus on measures that work cohesively to improve outcomes in the long term, including recommendations for research and subsequent policy development and providers' need for dependable long-term funding.

Recommendations: The committee made 40 unanimous recommendations, with a further eight supported by the majority of the committee. In a sense, these recommendations are all long term in focus as they are designed as investments in tamariki Māori to increase their wellbeing as adults. However, 16 recommendations had an explicitly long-term focus (e.g., requiring the development of research into the wellbeing of tamariki Māori or increasing education and recruitment opportunities for Māori in the health and teaching workforces in order to increase the number of Māori health practitioners and the number of teachers of te reo Māori).

Government response: The Government identified existing work that it felt adequately met all the recommendations it accepted.

Inquiry into improving child health outcomes and preventing child abuse, with a focus from preconception until three years of age (Health Committee, November 2013)¹²⁵

Summary: This substantial inquiry conducted over two years sought to identify practical health and social interventions early in children's lives and found that the greatest gains and cost savings come from effective, evidence-based early intervention. Inherently long term in scope, five of

¹²³ <https://www.parliament.nz/resource/0000243164>

¹²⁴ https://www.parliament.nz/en/pb/sc/reports/document/50DBSCH_SCR6050_1/inquiry-into-the-determinants-of-wellbeing-for-tamariki

¹²⁵ https://www.parliament.nz/en/pb/sc/reports/document/50DBSCH_SCR6007_1/inquiry-into-improving-child-health-outcomes-and-preventing

the six terms of reference focused on finding such early interventions. The report: discussed in detail creeping and long-term issues, examining changes over time; highlighted the need for Government intervention; and asked for policy settings to shift and grow as evidence is produced. Recommendations were specific and often set timeframes for Government action; although none of these exceeded three years so were in some ways short-term targets, the recommendations remain long-term in focus.

Recommendations: The report made 18 detailed 'key' recommendations, supported by more recommendations in individual chapters. Although some targets had short-term deadlines (e.g., the recommendation to develop a plan to address sexual and reproductive health within 18 months), they were long-term in focus in the sense that each recommendation aimed to address a long-term trend. The committee expressed a wish to see the Government "commit itself to optimal and equitable investment in this area in the medium to long term".

Government response: The Government identified existing work that it felt adequately met all the recommendations it accepted.

Inquiry into engaging parents in the education of their children (Education and Science Committee, July 2014)¹²⁶

Summary: This inquiry considered how well parents are engaged in their children's education and what can be done to increase parental engagement. The report discussed long-term matters substantially in terms of impacts both for children and for parents. However, its recommendations were short-term in scope and only long term by implication.

Recommendations: The committee made 18 recommendations, of which three or four could be interpreted as long-term.

Government response: The Government identified existing work that it felt met the committee's recommendations, but also agreed to take recommendations into account in upcoming policy review work.

Inquiry into the funding of specialist sexual violence social services (Social Services Committee, December 2015)¹²⁷

Summary: In conducting a broad review of the funding and state of specialist sexual violence social services, the inquiry did not set out to be long term in scope. Nevertheless it ended up considering a range of long-term issues, including long-term costs from sexual violence, the benefits of prevention and early support, and the sector's need for stable funding, along with Accident Compensation Corporation investment programmes that aim to reduce the incidence of sexual violence and to reduce harm from sexual violence with its long-term care and recovery services. The committee noted long-term trends like increasing demand for services and burnout among staff and scrutinised the absence of a coherent Government response, inadequate sector funding and lack of Government targets to reduce the incidence of sexual violence. Its recommendations ranged from immediate (establishing an interagency organisation to lead work) to long term (provide training and professional development for services workers, research development and incorporation, long-term national prevention framework).

Recommendations: The committee made 32 recommendations, of which 13 were long term in focus.

Government response: The Government accepted the overall criticisms of the report and its recommendations. In its response, it committed to reprioritising ongoing work, particularly of a recently established Ministerial Group, to meet committee recommendations, including offering specific target dates for completing some pieces of work, and agreed to consider further

¹²⁶ https://www.parliament.nz/en/pb/sc/reports/document/50DBSCH_SCR56937_1/inquiry-into-engaging-parents-in-the-education-of-their

¹²⁷ https://www.parliament.nz/en/pb/sc/reports/document/51DBSCH_SCR68111_1/inquiry-into-the-funding-of-specialist-sexual-violence

investment in future Budgets. It also identified existing ongoing work it felt met committee recommendations.

Inquiry into Parliament's legislative response to future national emergencies (Regulations Review Committee, December 2016)¹²⁸

Summary: The inquiry reviewed legislative responses to national emergencies and planned for such responses in the future, which included reviewing the legislation associated with the Canterbury earthquakes and developing principles to use in the future. It was a long-term review in two senses: it reviewed historical events and planned for the future; and it acknowledged that any legislation designed to cope with national emergencies has to be long term in scope in order to adequately prepare for recovery. It found that legislation associated with the Canterbury earthquakes was too broad in scope and powers and recommended an extensive set of principles for designing and preparing legislation to use in the future, including preparing legislation appropriate for various different types of emergencies and sunset clauses that prevent emergency legislation remaining on the statute book for longer than appropriate.

Recommendations: The committee made 11 recommendations, of which three were specifically long term in focus.

Government response: The Government acknowledged the strengths of the report but generally argued in favour of preserving more flexibility and powers for government.

Inquiry into the future of New Zealand's mobility (Transport and Industrial Relations Committee, August 2017)¹²⁹

Summary: This comprehensive long-term inquiry investigated how changing transport technology can change the transport landscape in New Zealand. The committee considered long-term trends related to, for example, autonomous vehicles and emerging technologies, deaths and health issues related to physical inactivity, rights and accessibility for people with disabilities, and climate change. Recommendations were almost all long term in nature, including a suite of recommendations aiming to set New Zealand up as welcoming and nurturing of transport innovations, so it can take advantage of cost efficiencies, improved safety, lower carbon emissions and reduced congestion.

Recommendations: The committee made 14 recommendations, of which 10 were long term in nature.

Government response: The Government adopted most recommendations and committed specifically to reviewing its safe journeys strategy and to incorporating the committee's work in developing an upcoming policy statement on land transport.

Possible improvements

Some possibilities to strengthen the committee inquiry system present themselves immediately. One is to address the ad hoc nature of committee inquiries by encouraging committees to establish an inquiry work-plan from the beginning of a term of Parliament. This would allow committees to allocate time and recruit staff to produce good inquiry reports.

For a committee inquiry to proactively consider long-term issues, the best first step is to include long-term considerations in the terms of reference. Committees could also include a specific reference to assess progress against specific targets, where such targets exist or might be contemplated. This would help address what can be vague or unfocused recommendations and the tendency by committees to avoid criticising retrospectively. Many areas of inquiry have an existing long-term strategy, a previous

¹²⁸ https://www.parliament.nz/en/pb/sc/reports/document/51DBSCH_SCR71932_1/inquiry-into-parliaments-legislative-response-to-future

¹²⁹ https://www.parliament.nz/en/pb/sc/reports/document/SCR_74955/inquiry-into-the-future-of-new-zealands-mobility

report, or existing Government or agency targets. Helping committees identify such existing targets and encouraging a review against them could be a concrete way for committees to assess what progress has already been made and to venture a view about what further progress is needed.

One way to address weak or indifferent government responses to inquiries would be to institute a review system for recommendations, calling ministers or agencies to the appropriate committee to follow up on progress against a committee’s recommendations. This could be rolled into the annual review system – perhaps requiring agencies to report on their response to recommendations made in their policy area by committee inquiries released three years previously. Alternatively, when reporting on inquiries, committees could indicate a review date.

Table 5.6: Summary assessment of current performance against relevant indicators – briefings and inquiries

Indicator	Assessment
Political and public engagement	
Active committee scrutiny of long-term issues	Briefings can be used to track progress on long-term matters, but this is rare.
Inquiries into long-term issues	About a quarter of inquiries substantively deal with long-term issues.
Regular plenary debate of long-term issues	Inquiry reports are occasionally debated in the House; committees could more frequently ask the Business Committee to arrange debates for this purpose.
Public participation in framing long-term issues and outcomes	Inquiries normally involve a call for public submissions.
Robustness	
Work programmes of committees include in-depth inquiry into long-term issues	Committee work programmes generally accommodate existing business without necessarily creating space over the term of a Parliament for committees to conduct in-depth inquiries.
Adequate workload capacity of committees or other scrutiny bodies	Capacity of select committees to receive briefings and conduct inquiries is heavily influenced by other, non-discretionary workload.
Dedicated research and advisory support for MPs and committees	Because of the nature of inquiries and briefings, the support of government officials is not always available or appropriate. Codes of practice encourage committees to seek advice from the Office of the Auditor-General and Parliamentary Commissioner for the Environment, where applicable. However, committees do not routinely seek such advice.
Ready access to, or ongoing partnership with, independent expert advice about long-term issues	Independent advice may be sought in support of briefings or inquiries, but this does not always occur. At present, committees do not have ongoing partnerships with independent advisors for inquiries.
Impact	
Strong government expectation of parliamentary scrutiny	Briefings and inquiries are ad hoc, so do not generate a strong expectation of scrutiny.
Measurable long-term policy objectives, targets and monitoring, reported to House	Briefings can be used for this purpose, but this is rare.

Impact on policy outcomes	Some inquiries result in recommendations that are actioned by the government, but this is rare.
Follow-up mechanisms as part of scrutiny model	The government is required to respond to recommendations, but select committees tend not to follow up on these responses or the ongoing implementation of recommendations. Instituting a systematic follow-up procedure could significantly improve the process.
Durability	
Broad political support for scrutiny model	Many inquiries are carried out on a cross-party basis, though not necessarily so. The inquiry procedure is an established select committee function; however, as a discretionary procedure, its use is affected by increasing demands on committee time.

Reports of Officers of Parliament

In 2008 the Standing Orders Committee recommended a new Standing Order to ensure that subject select committees consider reports of Officers of Parliament. The committee noted:

There is no statutory or formal requirement for the Government or any other public authority to respond to recommendations set out in reports from the Controller and Auditor-General and the Parliamentary Commissioner for the Environment, although the Ombudsmen do have the power to request a response. The involvement of a select committee may promote efforts to engage in implementing or responding to recommendations. The select committee may itself make recommendations in the light of the report, and recommendations addressed to the Government would require a response.¹³⁰

Under Standing Order 396, reports of the OAG are referred to the Finance and Expenditure Committee, reports of the Ombudsmen or an Ombudsman are referred to the Governance and Administration Committee, and reports of the Parliamentary Commissioner for the Environment (PCE) are referred to the Environment Committee. A committee that has received an Officer of Parliament report may refer the report to another subject select committee if the subject of the report is primarily within the terms of reference of that other committee.

How or when committees respond to reports of Officers of Parliament is not prescribed by the Standing Orders. While a committee must report to the House, that report can state as much or as little as the committee decides. Committee reports divide into substantive reports (where the committee explores various issues in its report to the House) and pro forma reports (typically one or two sentences, requesting that the House take note of the report). They may include recommendations, including to the government. Committees also have an open-ended timeframe to report to the House and must schedule their consideration of the matter alongside their other business, such as legislative and financial scrutiny, consideration of petitions, and conduct of inquiries.

Since 2008, Officers of Parliament have published a significant body of work that has been presented to the House and then referred to select committees. Preparation for this report included reviewing reports by Officers of Parliament at a high level for indications of:

- whether Officers explore issues of long-term governance in their reports
- aspects of long-term governance that select committees engage with when they consider Officer of Parliament reports
- whether select committees engage with issues of long-term governance as a result of considering Officer of Parliament reports
- observations on how select committees engage with Officer of Parliament reports.

¹³⁰ Standing Orders Committee (2008) *Report of the Review of Standing Orders* (I.18B), p 41.

The approach of the review was to scan select committee reports on Officer of Parliament reports that were presented to the House between November 2008 and January 2019. The analysis is primarily focused on OAG reports, rather than those of the PCE and Ombudsmen. In the survey period, five reports from the Ombudsmen were referred to committees, resulting in four substantive reports and one pro forma report. Ombudsmen initiated all of these reports in response to “serious or systemic issues, where the Ombudsman thinks their intervention has the potential to result in wider administrative improvement”.¹³¹ Examples of topics for self-initiated investigations include prisoner health services, access to information following the Canterbury earthquakes, and processes for closing and merging schools. Therefore, while such reports are likely to affect the future conduct of state agencies, their genesis and focus tend not to be long term or relate to anticipatory governance matters.

On the other hand, the concerns of the PCE are usually long term in nature, addressing issues such as climate change and sea-level rise, the management of the conservation estate, air quality and threats to biodiversity. Between November 2008 and January 2019, select committees considered 26 PCE reports, resulting in 16 substantive and 10 pro forma reports. This reflects generally positive engagement by committees with the work of the PCE. Nevertheless, only one select committee report on a PCE report has resulted in recommendations to the Government.¹³²

By far the largest number of select committee reports on Officer of Parliament reports relate to OAG work, most of which were considered at a high level for this part of the research. Under section 36 of the Public Audit Act 2001, the Controller and Auditor-General is required to consult the House of Representatives on his or her draft annual plan. The survey of select committee reports includes committee reports on these draft annual plans, as well as reports on the results of performance audits. The only exclusions from the survey were committee reports on the OAG’s reporting on methodologies or standards for accounting and auditing, as it was assumed that they would not include matters of long-term governance.

The survey covered approximately 190 OAG reports presented to the House between November 2008 and January 2019. Of these, 66 were assessed as, on the face of it, raising issues of a long-term nature. Select committees produced substantive reports on 39 of these 66 OAG reports, while the remaining 27 resulted in pro forma reports. These 39 select committee reports on OAG reports demonstrate the value of the OAG in highlighting matters of long-term governance for members. Moreover, they suggest that the OAG is uniquely-placed to enhance understanding – both within Parliament and more widely – of the long-term challenges developing across government, as the Finance and Expenditure Committee itself noted in 2014.¹³³ A snapshot of the breadth of the OAG’s interests comes from its audit work in the survey period, which included:

- commentary on Treasury’s statements on New Zealand’s long-term fiscal position
- electricity distribution and asset management
- using information to improve Māori educational success
- home-based support services for older people
- preparedness for and responsiveness to biosecurity incursions
- governance arrangements in the arts, culture and heritage sector
- how local authorities are planning to meet the forecast demand for drinking water.

While it has not been possible to conduct a detailed review and assessment of how select committees have interacted with OAG reports, developing this report has produced the following useful propositions on the OAG’s value to parliamentary scrutiny of long-term governance.

Concern for the long-term is fundamental to OAG’s work. This proposition is most clearly demonstrated in the theme chosen by the OAG for its 2012/13 performance audits: “Our future needs: is the public

¹³¹ Office of the Ombudsman. Self-initiated investigations. <http://www.ombudsman.parliament.nz/what-we-do/investigations/self-initiated-investigations>

¹³² Local Government and Environment Committee (2011) *Report of the Parliamentary Commissioner for the Environment on Evaluating the use of 1080: Predators, poisons and silent forests, Petition 2008/47 of Mr P Findlay on behalf of the Thames Landcare Group and 3,107 others, and Petition 2008/81 of Maureen Pugh.*

¹³³ Finance and Expenditure Committee (2014) *Report from the Controller and Auditor-General, Reflections from our audits: Our future needs – is the public sector ready?*, p 2.

sector ready?". In reports during the survey period, the OAG has advocated for long-term perspectives in government decision-making,¹³⁴ looked at the projected impacts of population growth and demographic change on key services¹³⁵ and promoted a strategic and sustainable approach to public sector asset management.¹³⁶ The OAG has long been an advocate for best practice in approaches to long-term governance, by supporting, for example, strategic asset management,¹³⁷ trends reporting and analysis,¹³⁸ robust forecasting¹³⁹ and sustainable governance models.¹⁴⁰

OAG can provide independent commentary on long-term thinking by the government and government agencies. The OAG has twice reviewed the Treasury's statements on the long-term fiscal position and the Finance and Expenditure Committee has considered the OAG's reports.¹⁴¹ The OAG highlighted for the committee possible gaps in the Treasury's approach (e.g., suggesting it could make greater use of sensitivity analysis or place more emphasis on the financial consequence of shock events) and made recommendations for future statements (e.g., to prepare a range of plausible scenarios to support financial projections). This independent critique and its consideration by the legislature can only make the government's long-term forecasting more robust.

OAG plays an important role as a conduit for MPs to long-term issues within the local government sector. The OAG works directly with local authorities on long-term issues through its audit work, which includes audits of long-term plans.¹⁴² It also reports to Parliament on what has emerged from its engagement with local government – for example, in its regular summary report on the results of its local authority audits. The OAG's work is therefore vital in connecting MPs with the local government sector, where issues of risk, resilience and sustainability are fundamental.

OAG looks across sectors of government activity for issues of long-term governance. As with its local government work, the OAG audits and reports on matters affecting particular sectors of government activity. A good example is the OAG's 2016/17 report on the health sector.¹⁴³ As a result of this report, the Health Committee considered key long-term matters: the impact of ongoing district health board (DHB) deficits on the resiliency of the sector, asset management as a significant risk to future service delivery in the sector, and an endorsement of the OAG's assertion that DHBs should focus more on long-term strategic planning and asset management.

OAG can provide valuable insight into progress of government strategies or programmes. Select committees have a number of ways of scrutinising the progress of government strategies and initiatives that have a

¹³⁴ See Finance and Expenditure Committee (2014) *Report from the Controller and Auditor-General, Maintaining a future focus in governing Crown-owned companies.*

¹³⁵ See Commerce Committee, 2012/13 financial review of Transpower New Zealand Limited; Commerce Committee (2014) *Report from the Controller and Auditor-General on Transpower New Zealand Limited: Managing risks to transmission assets*; Local Government and Environment Committee (2016) *Report from the Controller and Auditor-General, Consulting the community about local authorities' 10-year plans, and Matters arising from the 2015–25 local authority long-term plans.*

¹³⁶ See Finance and Expenditure Committee (2016) *Report of the Controller and Auditor-General, A review of public sector financial assets and how they are managed and governed*; Local Government and Environment Committee (2015) *Report from the Controller and Auditor-General, Water and Roads: Funding and Management Challenges.*

¹³⁷ Transport and Infrastructure Committee (2018) *Reports of the Controller and Auditor-General, Energy sector: Results of the 2014/15 audits, and Managing the assets that distribute electricity.*

¹³⁸ Health Committee (2017) *Report of the Controller and Auditor-General, Collecting and using information about suicide.*

¹³⁹ Finance and Expenditure Committee (2017) *Report of the Controller and Auditor-General, Medium-term planning in government departments: Four-year plans.*

¹⁴⁰ Local Government and Environment Committee (2016) *Report of the Controller and Auditor-General, Principles for effectively co-governing natural resources.*

¹⁴¹ See Finance and Expenditure Committee (2013) *Report from the Controller and Auditor-General, Discussion Paper: Commentary on Affording our future: Statement on New Zealand's long-term fiscal position*; Finance and Expenditure Committee (2013) *Statement on the long-term fiscal position, July 2013*; Finance and Expenditure Committee (2018) *Reports of the Controller and Auditor-General, The Auditor-General's strategic intentions to 2025, Commentary on He Tirohanga Mokopuna: 2016 statement on the long-term fiscal position, Central government: Results of the 2016/17 audits, Inland Revenue Department: Procurement for the Business Transformation Programme.*

¹⁴² Finance and Expenditure Committee (2016) *Report from the Controller and Auditor-General, Consulting the community about local authorities' 10-year plans, and Matters arising from the 2015–25 local authority long-term plans.*

¹⁴³ Health Committee (2018) *Report of the Controller and Auditor-General, Health sector: Results of the 2016/17 audits.*

long-term focus, including via their financial scrutiny work and by initiating briefings into the issue. OAG reports provide another means for select committees to evaluate and ascertain progress. For example, in the survey period the OAG reported on the Māori education strategy, Ka Hikitia, and the initial phase of the Whānau Ora programme.¹⁴⁴ Another strength of the OAG model is relevant to Parliament's role in holding the government to account for longer than a single electoral cycle: this is the OAG's willingness to follow up its original reporting with audits or investigations.¹⁴⁵

Observations on select committee engagement with Officer of Parliament reports

The Standing Orders Committee's 2008 recommendation to automatically refer Officer of Parliament reports to select committees was in part motivated by a desire to encourage governments to respond to and implement the recommendations of Officers. The Standing Orders Committee thought that committees would be well placed to put pressure on governments to act, including by making their own recommendations, which governments are required to respond to. The survey of reports between 2008 and 2019 identified committees made such recommendations in response to just two OAG reports¹⁴⁶ and one report of the PCE.¹⁴⁷ Certainly Officers of Parliament have other means of getting their report recommendations to gain traction (e.g., via the media or directly through government agencies or ministers). However, on the basis of a simple measure of select committee recommendations to governments in relation to Officer of Parliament reports, the success of the 2008 Standing Orders change in procedure appears to have been limited.

Despite the paucity of select committee recommendations, there is clearly value in parliamentary committees formally engaging with the work of Officers of Parliament, as the propositions on OAG reports above demonstrate (and indeed, a number of these propositions apply to the PCE also).

It is equally clear that the outcomes of select committee consideration of Officer of Parliament reports could be improved, which in turn could improve parliamentary awareness and scrutiny of long-term issues. At least three kinds of improvements could be explored.

1. Promote government responses to Officer of Parliament recommendations. One option is to require governments, in the establishing statute for each Officer of Parliament, to respond to Officer of Parliament recommendations within a specific timeframe. Select committee scrutiny could then focus on two documents: the Officer of Parliament report and the government response to it. Both are papers presented to the House; the presentation of the latter would be the trigger for select committee consideration to begin. However, a statutory requirement would need to be considered carefully in close consultation with the Officers of Parliament; requirements to respond could subtly affect the relationships of these Officers with ministers and government agencies. An alternative, less prescriptive approach to promote government responses to recommendations would involve incentivising select committees to make greater use of their power to make recommendations to the government. The Standing Orders Committee would be the most appropriate parliamentary mechanism to advance this approach. It could, for example, set expectations for how subject select committees consider Officer of Parliament reports and encourage more frequent recommendations.
2. Make select committee consideration of Officer of Parliament reports more timely. Frequently the gap in time between the tabling of an Officer report in the House and the select committee report on it is significant. This likely reflects the competing demands on select committee time and the relative priority of considering Officer of Parliament reports. Amending Standing Order 396 to set a standard timeframe for a select committee to report back to the House (e.g., six months) would encourage

¹⁴⁴ Social Services Committee (2015) *Report from the Controller and Auditor-General – Whānau Ora: The first four years*; Education and Science Committee (2017) *Report of the Controller and Auditor-General – Summary of our Education for Māori reports*.

¹⁴⁵ See Primary Production Committee (2016) *Report from the Controller and Auditor-General – Ministry for Primary Industries: Preparing and responding to biosecurity incursions – follow-up audit*.

¹⁴⁶ Health Committee (2010) *Report from the Controller and Auditor-General on Effectiveness of arrangements to check the standard of services provided by rest homes*; Finance and Expenditure Committee (2009) *Report from the Controller and Auditor-General on Inland Revenue Department: Managing tax debt (I.3F)*.

¹⁴⁷ Local Government and Environment Committee, *Report of the Parliamentary Commissioner for the Environment on Evaluating the use of 1080*, above n 132.

more timely engagement with this work and make it less likely that delays in reporting dilute the importance of major issues.

3. Improve the quality of select committee engagement. The survey demonstrated that, while committees were often highly engaged with Officer of Parliament reports, some committee reports were largely summaries of the original Officer of Parliament report, with minimal committee commentary. The latter approach indicates that, even if not reporting in a pro forma way, committee engagement with Officer of Parliament reports can at times be cursory. It would be worth exploring new ways to enhance engagement. Committees, for example, could creatively structure hearings of evidence on Officer of Parliament reports as a dialogue between the Officer, committee and relevant government department or departments. Alternatively they may wish to use Officer of Parliament reports as a springboard for initiating their own inquiries. Potentially, too, select committees could take a strategic approach to long-term issues within their subject area and commission work by Officers to assist them.

A decision about any option would require careful consideration by the Standing Orders Committee, consultation with Officers of Parliament and analysis of possible unintended consequences of changes (e.g., prescribed timeframes for committees to report on Officer of Parliament reports could result in more pro forma reports, especially by busier committees).

Table 5.7 summarises how consideration of Officers of Parliament reports aligns with relevant indicators.

Table 5.7: Summary assessment of current performance against relevant indicators – consideration of reports of Officers of Parliament

Indicator	Assessment
Political and public engagement	
Active committee scrutiny of long-term issues	Committees have scrutinised long-term issues reactively, when Officers of Parliament reports bring those issues to their attention.
Regular plenary debate of long-term issues	No select committee reports about Officers of Parliament reports have yet been debated.
Public awareness of parliamentary scrutiny of long-term issues	There is very little public awareness of this procedure.
Robustness	
Parliamentary rules embedding procedural triggers for scrutiny of long-term issues	A procedural trigger is in place for reports of Officers of Parliament to be considered.
Adequate workload capacity of committees or other scrutiny bodies	As committees have no deadline to deal with reports of Officers of Parliament, these items of business are effectively discretionary and thus heavily influenced by committees' non-discretionary workload.
Dedicated research and advisory support for MPs and committees	The relevant Officer of Parliament usually briefs the committee to which a report has been referred, and is generally available to assist the committee in further considering the matters raised in the report.
Impact	
Strong government expectation of parliamentary scrutiny	The expectation that Officers of Parliament will scrutinise the government is strong and their reports are automatically referred to select committees.
Coherent statutory commitment devices	The Office of the Auditor-General's functions include scrutiny to ensure public agencies are complying with relevant legislation.

Follow-up mechanisms as part of scrutiny model	Officers of Parliament tend to follow up on the implementation of their recommendations.
Durability	
Broad political support for scrutiny model	Officers of Parliament are broadly supported across the political spectrum.
Public confidence in scrutiny model	Officers of Parliament appear to have a strong and trusted brand.
Certainty of resources for scrutiny model	Funding for Officers of Parliament is recommended by the House, to reduce executive control.

International treaty examinations

The signing of international treaties is a Crown prerogative. The government negotiates and enters into treaties without requiring approval from the House, and a treaty could become binding on New Zealand, at an international level, when it is signed. On the other hand, entering into an international treaty in itself does not endow the treaty with the force of law in New Zealand. Parliament retains the *legislative* prerogative; only when a treaty is implemented in or under a statute will it have legal effect domestically. The practice thus has been to implement a treaty's obligations in domestic law before New Zealand becomes bound by it.¹⁴⁸ Since 1998, the House has scrutinised multilateral treaties and significant bilateral treaties, which are presented to the House by the Minister of Foreign Affairs for this purpose.¹⁴⁹ Recognition of Parliament's legislative prerogative has improved since a change to the House's procedures in 2017, so that an international treaty that requires implementation through a bill is now debated in the House before the bill is introduced.¹⁵⁰

Some international treaties have long-term implications, in that New Zealand's commitments under them are ongoing and substantial. Only rarely has New Zealand withdrawn from a treaty after signing it.¹⁵¹ An international treaty examination therefore may involve the select committee's consideration of long-term matters. When an international treaty is presented to the House for referral to a select committee, the Standing Orders require that a "national interest analysis" be presented at the same time. This analysis must include (among other matters):¹⁵²

- the advantages and disadvantages to New Zealand of the treaty entering into force for New Zealand
- the economic, social, cultural and environmental effects of the treaty entering into force for New Zealand, and of the treaty not entering into force for New Zealand
- the costs to New Zealand of compliance with the treaty.

These requirements demand a forward-looking analysis. Where a treaty is substantive and important, the analysis of expected effects, costs and benefits should include long-term scenarios. Such an analysis transpired after the Government signed the Trans-Pacific Partnership (TPP) Agreement in February 2016: the Government announced a projection that the agreement would benefit the New Zealand economy to the value of \$2.7 billion per year by 2030, including tariff decreases, reductions in non-tariff barriers to trade, and other measures.¹⁵³ This claim was based primarily on a study focused on the effects of tariff reductions on various sectors of the economy, which was commissioned by the Ministry of Foreign Affairs and Trade,¹⁵⁴ and represented a conservative approach to the study's findings about the projected increase in GDP.

¹⁴⁸ Harris & Wilson, *Parliamentary practice in New Zealand*, above n 32, p 684.

¹⁴⁹ SOs 397–400.

¹⁵⁰ SOs 250(2) and 400(4).

¹⁵¹ New Zealand Treaties Online database: <https://www.treaties.mfat.govt.nz/>

¹⁵² SO 398(1).

¹⁵³ Ministry for the Environment (2016) Trans-Pacific Partnership Agreement national interest analysis.

¹⁵⁴ A Strutt, P Minor & A Rae (2015) A dynamic computable general equilibrium (CGE) analysis of the Trans-Pacific Partnership Agreement: Potential impacts on the New Zealand economy. Prepared for Ministry of Foreign Affairs and Trade.

Because public interest in the agreement was so strong, when considering the TPP the Foreign Affairs, Defence and Trade Committee called for public submissions and received several thousand of them.¹⁵⁵ The great majority of submissions focused on particular issues, such as the Investor State Dispute Settlement provisions, or the potential effect of the agreement on pharmaceutical procurement, without specifically addressing the agreement's national interest analysis. However, the robustness of the analysis of long-term effects and other implications of the agreement was contested to some extent in the differing views that parties expressed in the committee's report. These parties provided brief critiques of the modelling that underpinned the government's assertions about the long-term benefits of the agreement. Members also expressed concern that the committee's examination of the agreement had been curtailed.¹⁵⁶ This may have affected committee members' ability to test, and potentially receive independent advice on, long-term issues arising from the agreement.

Most multilateral treaties are not of such substantial public interest and, in general, select committees do not call for submissions about them. Many treaties comprise amendments to existing agreements to reflect updates in technical or minor matters, and would not warrant a detailed analysis of long-term implications.

The international treaty examination procedure therefore needs to cater for a range of scenarios in terms of the size and subject matter of different treaties. The process is somewhat flexible, in that the Standing Orders do not set a time limit for examinations. The government refrains from taking further binding action in respect of a treaty until the select committee has reported, or 15 sitting days have passed, whichever is sooner. However, an extension to this period can be considered.¹⁵⁷ The national interest analysis requirements apply to all treaties that are subject to the examination process, although it is largely up to the Ministry of Foreign Affairs and Trade to decide whether to commission particular expert advice as it sees fit, for instance in relation to projected long-term costs and benefits, based on the nature of the treaty. It would be difficult for the Ministry to comply fully with the national interest analysis requirements in relation to a major treaty without providing substantive material about long-term costs, benefits and effects. A select committee conducting an examination could resolve to obtain an independent analysis, but this could be problematic given the need for a committee majority to do so, as well as the relatively short timeframe for considering treaties.

Because of the highly variable nature of international treaties, this report does not include a specific recommendation in respect of the international treaty examination procedure. On the other hand, if select committees made greater use of independent expert advice and had a more general interest in long-term issues, this form of parliamentary scrutiny would benefit significantly.

International treaties not subject to examination process

Most international treaties are bilateral – that is, entered into between New Zealand and one other state. While many bilateral treaties are presented to the House, they are not subject to the international treaty examination procedure unless submitted by the Minister of Foreign Affairs, who decides whether they qualify for the procedure based on their degree of importance and other pre-determined criteria.¹⁵⁸ Many bilateral treaties establish arrangements for particular events or for a limited period, and expire relatively quickly. For example, a treaty might set out an agreement for New Zealand Defence Force personnel and military assets to be present in another country as part of a training exercise. Some bilateral treaties, such as air service agreements (which are entered into for the purpose of improving air service connectivity with and through other countries), might not individually be of particular interest from a broader long-term perspective, although they collectively represent a strategic programme of seeking greater liberalisation of air services.¹⁵⁹ However, a select committee would not consider these individual treaties (or the wider

¹⁵⁵ A total of 6,351 submissions was received, of which 3,150 were form submissions. Foreign Affairs, Defence and Trade Committee (2016) *International treaty examination of the Trans-Pacific Partnership Agreement*, appendix A, p 21.

¹⁵⁶ *Ibid*, pp 11–20.

¹⁵⁷ Cabinet Office (2017) *Cabinet Manual*. Wellington: Department of Prime Minister and Cabinet, para 7.129. <https://dpmc.govt.nz/sites/default/files/2017-06/cabinet-manual-2017.pdf>

¹⁵⁸ Harris & Wilson, *Parliamentary practice in New Zealand*, above n 32, p 687.

¹⁵⁹ Ministry of Transport (2015) *International air transport policy statement*. <https://www.transport.govt.nz/air/iatrpolycstatement/>

programme) unless it decided to undertake a briefing or inquiry on the topic. The presentation of such treaties to the House gives them sufficient visibility for MPs to take note of them and draw attention to them if they wish.

Table 5.8 summarises how consideration of examination of international treaties aligns with relevant indicators.

Table 5.8: Summary assessment of current performance against relevant indicators – international treaty examinations

Indicator	Assessment
Political and public engagement	
Active committee scrutiny of long-term issues	International treaty examinations do not necessarily involve long-term issues.
Robustness	
Parliamentary rules embedding procedural triggers for scrutiny of long-term issues	The Standing Orders require the preparation of national interest analyses. They do not explicitly require long-term analysis, though this would be expected for a substantial multilateral treaty of ongoing effect.
Adequate workload capacity of committees or other scrutiny bodies	International treaty examinations have a relatively tight timeframe, which means the capacity of committees to deal with them substantively is heavily influenced by other workload at the time.
Dedicated research and advisory support for MPs and committees	In-house research support and Officers of Parliament advice as relevant are available, though the general practice is not to use these resources for international treaty examinations.
Ready access to, or ongoing partnership with, independent expert advice about long-term issues	Committees could seek independent expert advice to contest the validity of assessments made in national interest analyses, but generally do not do so. To some extent, this may be due to the relatively short timeframe for the examination process.
Impact	
Strong government expectation of parliamentary scrutiny	Scrutiny takes place automatically, though notably only after treaties have been signed.
Durability	
Broad political support for scrutiny model	The international treaty examination procedure is now fully embedded as a parliamentary practice, although it relies on the government's continued undertaking to refrain from taking further binding action for a reasonable period while each treaty is being examined.

Representing the public

Threaded throughout the House's procedures, the representative function is the manner in which diverse views are expressed, both by MPs and by members of the public. MPs choose the particular mix of perspectives that they convey, usually involving both geographical constituencies and other communities of interest. When delivering their maiden statements on arriving in the House, most MPs give voice to the long-term aspirations of the groups they identify themselves as representing. Thereafter, they generally advocate enthusiastically for such concerns when given the opportunity to do so. The representative function also involves finding ways for the public to have their say. However, apart from general elections, few regular channels are available for the public to participate in parliamentary discussions about the future direction of the country.

Petitions

Receiving petitions is one of the longest-standing parliamentary procedures, through which any person can raise a matter of concern with the House.¹⁶⁰ The practice of petitioning the House remains highly visible and appears to have grown in popularity since the introduction of an electronic petitions (e-petitions) system in March 2018.

In recent times, petitions and their select committee consideration have prompted some high-profile examinations of public policy issues, such as patient access to non-funded medicines and the right to assisted dying for people with terminal or degenerative illnesses. Petitions can be an effective mechanism for drawing political attention to issues that have some immediacy (e.g., an imminent school closure) or that have attracted a local or national groundswell of support. They therefore lend themselves to raising issues of a more short-term nature.

That petitions are not a particularly effective mechanism for exploring matters of long-term governance is demonstrated by a review of the topics of petitions on the Parliament website since the introduction of e-petitions. Of the approximately 500 e-petitions initiated since the introduction of the electronic system (either open or closed for signature, as at May 2019), only a handful focused on long-term issues. Among this small number of future-focused petitions, most were concerned with climate change and related environmental issues.

Even petitions that seek action on issues of long-term governance do not necessarily cause committees to engage in meaningful foresight activities. As noted in other chapters, committee workloads determine priorities, and petitions are usually accorded lower priority than legislative and financial scrutiny work. A few petitions in recent years have caused committees to grapple with complex, multi-faceted problems but the resulting committee reports did not consider those problems in depth. Three examples are set out below.

Report of the Health Committee on Petition 2014/89 of Corinda Taylor on behalf of the Life Matters Suicide Prevention Trust and 1,740 others (December 2017)

This petition requested that the House hold an inquiry into mental health services to determine if current services meet the requirements and if planning is adequate to meet future demand. The Health Committee sought evidence from the petitioner, Ministry of Health, Health and Disability Commissioner and Health Quality and Safety Commission. The petitioner identified a number of specific concerns with the mental health system and proposed various areas for further inquiry. The committee was clearly engaged with these issues as it sought responses to these concerns from different health sector agencies. However, its report was ultimately a summary of the evidence received. The committee made no recommendations to the Government and concluded that the petitioner's concerns should be addressed in an upcoming ministerial inquiry into mental health, which the Government had recently signalled at the time of the committee's report.

¹⁶⁰ Harris & Wilson, *Parliamentary practice in New Zealand*, above n 32, p 600.

Report of the Social Services Committee on Petition 2014/95 of Traci Juella Booth (August 2017)

This petition sought action to establish a cross-party panel to exclusively identify and investigate the key causes of poverty and poor housing and to design and implement practical solutions. The committee's report summarised evidence from the petitioner on problems identified with social services agencies and her suggestions for improvements. The report offered minimal analysis of these issues. While the committee encouraged government social services providers to consider the petitioner's suggestions as part of their ongoing improvement processes, it stopped short of making recommendations to the Government.

Report of the Social Services Committee on Petition 2014/122 of James Crow (June 2017)

This petition requested that the Minister for Social Development create specific, effective government policy to tackle homelessness as a distinct social issue and that homelessness be added to the social development portfolio to bring New Zealand in line with many other OECD countries. The committee received written evidence from the petitioner and the Minister of Social Housing, as well as oral evidence from the petitioner. The committee's report was brief and disagreed, by majority, with the petition's requests.

Overall, MPs value petitions as a direct conduit for the public to draw issues to the House's attention. Committees exercise their collective political judgement in deciding how to deal with each petition. The main limiting factors are the growing number of petitions and their relatively low priority in the midst of the other streams of committee business. Petitions are thus not a reliable mechanism for generating parliamentary discussion about long-term issues.

Cross-party parliamentary groups

Cross-party parliamentary groups can take a variety of formats, ranging from informal groupings of MPs to institutionalised bodies with formal recognition and support. Their crucial feature, however, is that they provide a forum for MPs to jointly engage with ideas, the public and each other in a more informal way than a select committee or plenary debate. Often accompanied by less adversarial politics, cross-party parliamentary groups can unlock a mode of engagement and representation that may be particularly well-suited to addressing issues that are stymied by a focus on the short term.

Parliament has a number of cross-party parliamentary groups, including several regionally organised international parliamentary friendship groups, a women's group and a lesbian, gay, bisexual, transgender and intersex (LGBTI) rights group.¹⁶¹ As each of these groups has its own individual characteristics, a comprehensive overview is not possible here. However, generally cross-party parliamentary groups are less institutionalised than in some overseas jurisdictions, particularly the United Kingdom and some continental European countries. Parliamentary agencies give little formal administrative or financial support to the groups and their work seldom interacts with parliamentary proceedings in committees and the debating chamber. While the groups undoubtedly have an impact on policy-making, they rely on a combination of ad hoc arrangements, external support and strong leadership from key figures. Their impact could be greater if they were better supported.

One particular case merits closer examination in the New Zealand context: the experience of GLOBE-NZ, a cross-party group on climate change established in 2015. The group achieved considerable impact, including a special debate in the House. It offers valuable lessons in considering the potential contribution of such groups to long-term governance.

Case study: GLOBE-NZ

GLOBE-NZ was founded in late 2015 as a national chapter of GLOBE International, an international coalition of legislators seeking to foster cross-party collaboration on sustainable development and climate change. The New Zealand chapter was set up by Green Party MP Dr Kennedy Graham and comprised 35 MPs from all seven parties represented in the 51st Parliament led by an executive committee of six MPs.¹⁶²

¹⁶¹ <https://www.hrc.co.nz/news/mps-announce-cross-party-working-group-lgbti-rights/>

¹⁶² K Graham (2018) Cross-party collaboration on climate policy: The experience of GLOBE-NZ. *Policy Quarterly* 14(1): 37–43. <https://doi.org/10.26686/pq.v14i1.4759>

Much like its parent group, GLOBE-NZ started out by organising briefings from experts and visiting political and policy leaders, in pursuit of cross-party understanding and policy consensus on climate change. Its centrepiece achievement, however, was a rigorous report commissioned from London-based consultancy Vivid Economics, *Net zero in New Zealand: Scenarios to achieve domestic emissions neutrality in the second half of the century*. The 52-page report was funded by significant charitable donations and delivered detailed analysis of options for achieving net zero emissions by 2050.¹⁶³

From a parliamentary perspective, the most significant aspect of the GLOBE-NZ experience is the unprecedented special debate on the Vivid report, organised through the Business Committee and held in April 2017. Never before had the New Zealand Parliament paused its regular legislative and scrutiny work to debate a policy report commissioned by a cross-party group of MPs – a fact MPs acknowledged during the debate. Parties took differing positions on the policy contents of the report, but the debate made clear that the group's work had gone a long way to improving the quality of discussion on long-term climate change policy in New Zealand. Many paid tribute to the unique and edifying experience of collegial cross-party policy engagement.

What lessons can be taken from the GLOBE-NZ experience? Two major themes are salient: leadership, and funding and support. The group was driven in large part by the leadership of its convenor and chairperson. During the special debate, MPs recognised Dr Graham's "tireless" and "assiduous" leadership, saying the group "would not have all come together if Kennedy had not spent hours and hours and hours of time chasing us up with emails".¹⁶⁴ Relatedly, the group had no additional secretarial or administrative support, relying instead on MPs and their existing budgets and staff. For example, 10 MPs from six parties pooled portions of their own budgets to pay for a local expert to facilitate the Vivid consultants' Wellington visits. In sum, the group's organisation was ad hoc and somewhat idiosyncratic, and it faced significant barriers and disincentives to making meaningful impact.

The experience made clear the benefits of cross-party groups. As Dr Graham noted in his analysis of the experience:

[t]he subtle, but in hindsight crucial, experience of the group was that we were assembling across parties, in however informal a manner, a shared dossier of information on the subject. Instead of entering the debating chamber with information and judgement from each party's expert armies to argue the case, we were beginning ... [from] a common context. It makes a difference.¹⁶⁵

If the New Zealand Parliament is to take greater advantage of such collaborative dynamics – either within a particular policy topic or through a general long-term or future-focused forum – the appropriate institutional conditions for success will need to be created. These factors are discussed further in chapter 8.

Special debates

Occasionally the House's time has been set aside to debate topics of interest that are unrelated to other business. The best mechanism for achieving this is the Business Committee, a committee of MPs chaired by the Speaker, which has powers to arrange the use of the House's time. A determination of the Business Committee requires unanimity, or near-unanimity as long as minor parties are not unfairly disadvantaged. The GLOBE-NZ debate was arranged by the Business Committee¹⁶⁶ and is an outstanding example of a special debate. Another recent case was the arrangement of a special debate on Pacific issues, which took place in conjunction with a Pacific Parliamentary Forum held in the precincts during a sitting week.¹⁶⁷ Topical debates can also arise in connection with select committee inquiry reports, for example, a debate held on the report of the Health Committee on its inquiry into improving child health outcomes and preventing child

¹⁶³ Vivid Economics (2017) *Net zero in New Zealand: Scenarios to achieve domestic emissions neutrality in the second half of the century*. London: Vivid Economics. <http://www.vivideconomics.com/wp-content/uploads/2017/05/Net-Zero-in-New-Zealand-Summary-Report-Vivid-Economics.pdf>

¹⁶⁴ 721 NZPD 17490–17511 (13 April 2017). https://www.parliament.nz/en/pb/hansard-debates/rhr/combined/HansDeb_20170413_20170413_12

¹⁶⁵ Graham, Cross-party collaboration on climate policy, above n 162, p 42.

¹⁶⁶ Business Committee determinations for 5 and 12 April 2017.

¹⁶⁷ Business Committee determinations for 2 November 2016.

abuse, with a focus from preconception until three years of age.¹⁶⁸ It is unfortunate that debates on select committee inquiry reports do not occur more often; there would be benefit in encouraging committees to write to the Business Committee to request debates on particular inquiry reports that committees consider are important.

Suggestions were made in 2014 to replace some or all general debates with set-topic debates. While the Standing Orders Committee did not agree with these suggestions, it urged the greater use of the Business Committee's power to arrange special debates. This mechanism could be used to debate long-term issues, though the ideal formula would be for such a debate to follow from in-depth consideration through a select committee inquiry.

Table 5.9 summarises how procedures for representing the public align with relevant indicators.

Table 5.9: Summary assessment of current performance against relevant indicators – representing the public

Indicator	Assessment
Political and public engagement	
Active committee scrutiny of long-term issues	Reactive scrutiny can occur in response to long-term issues raised by a petition, though this is unusual.
Regular plenary debate of long-term issues	Such debates are rare.
Public participation in framing long-term issues and outcomes	Petitions offer a mechanism for the public to draw long-term issues to the House's attention.
Robustness	
Parliamentary rules embedding procedural triggers for scrutiny of long-term issues	Procedural triggers result in the automatic consideration of petitions. No procedural triggers for set-topic debates exist.
Adequate workload capacity of committees or other scrutiny bodies	Any debate of long-term issues would require House time to be made available for this purpose.
Impact	
Impact on policy outcomes	A few petitions have resulted in policy outcomes, though not in connection with future-focused issues.
Follow-up mechanisms as part of scrutiny model	The government must respond to recommendations contained in select committee reports on petitions, similar to recommendations on inquiries.
Durability	
Broad political support for scrutiny model	Petitions are a long-standing parliamentary procedure. Special debates occur only when arranged through broad agreement.

¹⁶⁸ Business Committee determinations for 4 December 2013.

Conclusion

While MPs often express aspirations for the future, including specific long-term policy intentions, their participation in scrutiny activities is more usually focused on short-term considerations or on past and current performance. This is partly because of more immediate political imperatives, but also because of the lack of mechanisms to bring long-term governance matters to the fore. Few procedural triggers exist to generate such scrutiny, and the discretionary use of select committees' time for this purpose is often overwhelmed by other business that has greater political significance or tight reporting deadlines. The lack of a broad, coherent statutory framework providing accountability for long-term governance means that MPs are not routinely provided with information about the expected long-term outcomes of the policies, bills and spending proposals that they consider.

This means governments have no strong expectations of scrutiny to influence their long-term governance behaviour. Moreover, New Zealand lacks the proactively future-focused political culture found in some other jurisdictions (see chapter 6). Committees do not often take active steps or wield the expert capability needed to test the projections and other information on long-term issues that they do receive. Vital support of Officers of Parliament and funding to obtain assistance from other independent specialist advisors are also underused by committees.

Looked at in positive terms, New Zealand has opportunities to improve its parliamentary scrutiny of long-term governance. Chapter 4 drew attention to a number of policy initiatives under way that may improve the quality of long-term governance and, as discussed in this chapter, the House has previously demonstrated a willingness to adapt its procedures to reflect such initiatives. Some examples of inquiries into long-term issues, while infrequent, have shown what is possible as templates for future inquiry work. Another promising prospect is the potential for the House and select committees to make greater use of the institutional support at their disposal, particularly the expertise and insightful scrutiny provided by the Officers of Parliament. Finally, this chapter has highlighted a number of examples of constructive cross-party conversations about the future, such as GLOBE-NZ and other informal networks that exist across the House's membership. These and other avenues for building the House's role in examining long-term and complex issues will be explored in the following chapters.

Chapter 6: Overseas approaches, models and practices

Introduction

This chapter investigates several institutional mechanisms that have been introduced in the legislatures of selected developed countries to enhance foresight, the scrutiny of long-term governance, and related matters. Drawing on their experience, the chapter concludes by identifying lessons for New Zealand.

A proper, systematic, comparative analysis of this topic would be a massive undertaking. Given the modest timeframe and limited resources available to prepare this report, only a brief survey of overseas models and practices has been possible. The selection of countries has been guided by two criteria. First, because New Zealand has a parliamentary rather than a presidential system of government, the focus of this chapter is on developed countries with parliamentary systems. Second, the aim has been to explore a range of institutional arrangements and procedures that are relevant to the task of scrutinising the quality of long-term governance and protecting future-oriented interests. Accordingly, the examples provided are relatively diverse, covering specialist legislative committees, future-focused forums with parliamentary representation, parliamentary commissions and independent commissioners with mandates to address long-term issues, and various advisory arrangements.

Many issues, however, are not discussed in detail. These include:

- the extent to which, and how, overseas legislatures engage in foresight exercises or undertake assessments of their national risks
- the full range of commitment devices, including procedural triggers, that overseas legislatures employ to encourage forward-looking inquiries or the examination of future-focused governmental reports
- the role and contribution of various parliamentary institutions in scrutinising the quality of long-term governance and providing advice to legislatures on long-term matters
- the extent to which considerations of intergenerational fairness or wellbeing inform parliamentary deliberations and decision-making.

Importantly, too, no attempt is made here to compare or assess the quality of legislative scrutiny (whether generally or in relation to long-term governance) in other parliamentary democracies or the extent to which the rigour or intensity of such scrutiny affects the quality of governmental policy-making. It seems reasonable to assume, however, that more exacting legislative scrutiny in a democracy will, other things being equal, enhance the incentives for good governance and that a stronger parliamentary focus on long-term issues and the interests of future generations will contribute to better anticipatory governance (see chapter 3).

Caution is needed in assessing the relevance of overseas models and practices for New Zealand. After all, parliamentary democracies differ, often markedly, with respect to their constitutional, political, institutional and administrative systems. Hence, mechanisms that are effective in one jurisdiction may not be similarly effective elsewhere. As discussed in previous chapters (especially chapters 3 and 5), New Zealand is a highly centralised, unitary state with a relatively small unicameral legislature and highly disciplined parliamentary parties. These aspects of our constitutional framework and political culture are likely to impede reform options that depend, for instance, on an upper house or a legislative chamber with an abundance of backbench members of Parliament (MPs).

For the purposes of this review, evidence has been drawn from various sources. These include: responses to a written survey conducted by the Office of the Clerk of the House of Representatives (OOC) during the latter part of 2018 and administered via the Commonwealth Parliamentary Association (see appendices 7 and 8); primary research undertaken by Professor Boston in London and Cardiff during mid-December 2018 and early January 2019, together with his earlier research in Finland in 2014; and a wide range of secondary

sources. Appendices 3, 4 and 5, prepared by the Parliamentary Library on request from the OOC, provide specific details regarding:

- the way that various overseas parliaments scrutinise government foresight activities
- the role of national audit institutions in scrutinising long-term governance
- the role of the Parliamentary Advisory Council on Sustainable Development in the German Bundestag.

Long-term scrutiny arrangements in overseas parliaments

As discussed in chapter 5, scrutinising the performance of governments and holding ministers to account for their decisions are among the crucial roles of legislatures. The 'government' in this context refers to both the political executive (e.g., Cabinet ministers and junior ministers) and the institutions of the public sector (e.g., departments, ministries, executive agencies). Legislative scrutiny involves multiple 'layers' and can be both *backward looking* (i.e., reviewing performance in the recent past) and *forward looking* (i.e., reviewing proposals for new public spending, borrowing and revenue-gathering, as well as assessing likely future performance, including the mitigation and management of risks, addressing creeping problems and so on). For the reasons discussed in chapter 5, the political incentives for legislatures to be forward looking – and hence to investigate how well governments are planning and preparing for the future – tend to be relatively weak. To help counter this deficiency, governments and legislatures around the world have enacted various commitment devices or created new institutions with specific mandates to safeguard future-oriented interests. Many of the mechanisms already in place in New Zealand to protect long-term interests were reviewed in chapter 3, while some of the new proposals to strengthen or extend existing mechanisms were discussed in chapter 4. Similar mechanisms are to be found in other parliamentary democracies, although their precise features differ. Indeed, there is great variety across the democratic world, with many different institutional arrangements, advisory mechanisms and parliamentary processes and procedures.

General observations

Before various models for parliamentary scrutiny of long-term governance are delineated, several matters require emphasis. First, in undertaking their scrutiny functions, overseas legislatures generally do not make sharp distinctions between different temporal periods (e.g., short term, medium term or long term), reflecting how such distinctions are often arbitrary or of little practical relevance. After all, a substantial proportion of the policy problems that governments and parliaments must address – whether economic, social, environmental or international – is enduring; these problems are never fully resolved. Equally, many policy problems have multiple consequences, each with different time horizons and levels of urgency. Moreover, in many cases the impacts of a policy decision – or of a failure to act – are neither mainly short term nor primarily long term; rather, they are ongoing. Nevertheless, for the reasons discussed previously, legislatures tend to focus on the immediate or short-term implications of governmental decisions and performance rather than the implications for future generations. Hence, intergenerational considerations – such as mitigating major long-term risks or ensuring greater intergenerational fairness – typically receive lower priority.

Second, as the survey results (see box 6.1) and the wider academic literature highlight, legislatures tend to be reactive rather than proactive; they respond to governmental measures, rather than taking the initiative. Hence, to the extent that they devote attention to long-term matters, it is usually in response to particular governmental actions, such as the publication of a major report, the tabling of legislation or an important Cabinet decision. Of course, legislatures conduct their own inquiries into governmental performance and produce substantial reports but, as highlighted in chapter 5, much of the rhythm of the parliamentary process is determined by the government's agenda. Accordingly, in reflecting on ways to enhance parliamentary scrutiny of long-term governance, it is important to consider the roles, responsibilities and influence of the government. For instance, what are the existing reporting obligations that governments must fulfil in relation to long-term trends, risks or opportunities? What additional commitment devices, including statutory requirements, might be desirable to enhance such reporting? And how can the procedures, processes and resources of the legislature be designed such that proper scrutiny is given to the reports that governments are required to produce? For instance, what new procedural triggers might be introduced into the rules governing a parliament's operations to enhance the likelihood and effectiveness of legislative oversight?

Third, and related, legislators depend heavily on information from the government (and its many agencies) in order to undertake their scrutiny functions, whatever the particular time horizons involved. In some cases, they can draw on independent expertise in specific policy areas (e.g., fiscal or environmental policy). But some parliaments have only limited access to external (i.e., non-governmental) experts. Hence, if scrutiny is to be more effective (whatever the temporal focus), the depth, breadth and quality of this independent expertise cannot be ignored.

Finally, in most democracies, national audit bodies play a crucial role in assisting their respective legislatures to hold governments accountable for their stewardship of public resources (e.g., by auditing their handling of public finances, undertaking value for money audits) (see appendix 4). Such bodies are typically parliamentary institutions and report to their respective legislatures. This includes providing information and advice to select committees, especially those with responsibilities for reviewing budgetary documents, examining Estimates or conducting annual reviews of agency performance. The extent to which such bodies give specific attention to longer-term matters appears to vary. In part, this is likely to be influenced by requirements for governments to produce various kinds of future-focused documents (e.g., long-term plans, infrastructure plans, investment strategies, and long-term fiscal projections). Where such requirements exist, national audit bodies will have an automatic rationale for reviewing the respective documents. Where they do not, the opportunities for scrutiny will be diminished.

Box 6.1: Summary of CPA survey results

The published literature on parliamentary scrutiny of the quality of long-term governance is modest. To address this gap, a survey of Commonwealth Parliamentary Association (CPA) member parliaments was undertaken to learn about legislated and voluntary long-term scrutiny practices elsewhere in the Commonwealth. The survey generated 19 responses, from a mix of national and state (or provincial) legislatures. The results highlighted that, to the extent that such scrutiny was conducted (and whether legally required or voluntary), it was typically scattered or ad hoc, rather than planned and systematic (see appendix 8 for details). Overall, parliaments' tools for scrutiny of long-term issues fell into four groups: voluntary committee scrutiny, annual reporting, legally mandated reporting on specific issues or pieces of legislation, and scrutiny by parliamentary officers or equivalents.

Some parliaments required governments to report periodically on specific long-term issues, often related to finance, specific health targets, such as smoking, or environmental issues. Other parliaments relied on annual reporting and reviews, pointing to the possibility for long-term scrutiny in that process. Although annual reviews typically have a short-term focus, in some cases, particularly when long-term targets have been set, committees can scrutinise long-term performance. Where a government was required to report to its respective parliament on long-term issues, or did so voluntarily, as with the Australian Government's *Closing the Gap* report,¹ scrutiny varied widely: some reports were debated in parliament or considered in a parliamentary committee, but others were rarely scrutinised.

Independent parliamentary scrutiny of a government's long-term governance appears to be even more ad hoc. Most parliaments have provisions for parliamentary committees to investigate long term issues, either as part of an investigation into a specific issue or as the focus of the investigation. However, few parliaments gave examples of this happening either regularly or comprehensively.

¹ See Department of Prime Minister and Cabinet (2019) *Closing the Gap: Report 2019*. Canberra: Department of Prime Minister and Cabinet.

Legislature's scrutiny of long-term governance – six approaches

In relation to legislature's scrutiny of long-term governance in parliamentary democracies, at least six distinct approaches can be identified. These approaches are not mutually exclusive. Indeed, most democracies combine two or more simultaneously, although they differ in their combinations and use a diverse range of mechanisms. In summary, the six approaches are to:

1. establish statutory requirements for legislatures to approve the long-term plans, strategies and/or goals of governments on specific policy matters (e.g., climate change mitigation), which give legislators the opportunity to scrutinise the government's intentions and question ministers on the merits of their proposals
2. related to the first approach, establish statutory or other requirements for legislatures, via a designated parliamentary committee, to receive and review reports focused on long-term policy issues (e.g., sustainability, environmental management, infrastructure planning and investment, national risks, climate change adaptation strategies, long-term fiscal projections) that the government and/or government agencies (e.g., a Ministry of Finance or Treasury) have produced
3. create specialist parliamentary committees that focus primarily or exclusively on scrutinising governmental performance and conducting major inquiries, some of which have significant long-term economic, social or environmental implications (e.g., the fiscal implications of population ageing or the ramifications of major disruptive technologies)
4. create specialist parliamentary committees dedicated to exploring long-term or future-focused matters, including the conduct of foresight exercises and the scrutiny of the government's long-term strategies (e.g., the Committee for the Future in the Finnish Eduskunta and the Parliamentary Advisory Council on Sustainable Development in the German Bundestag – see appendix 5)
5. create future-focused bodies bringing together legislators and the representatives of major civil society organisations and research institutions (e.g., Scotland's Futures Forum)
6. create (or strengthen) independent institutional arrangements to provide advice to legislators on major issues (often with long-term implications) or assist legislators to undertake their long-term scrutiny functions. These arrangements include providing additional analytical and research support for parliamentary committees and establishing new parliamentary institutions dedicated to future-oriented issues (e.g., the Knesset Commission for Future Generations). In some cases, the new institutions that have been established provide advice to both the government and parliament (e.g., the Norwegian Board of Technology, the United Kingdom Climate Change Committee and Office for Budget Responsibility, and the Future Generations Commissioner for Wales). In other cases, the institutions are dedicated solely to serving parliament (e.g., the UK Parliamentary Office of Science and Technology).

Assessing the various approaches

Assessing the merits of these various approaches poses challenges. First, the amount of relevant evaluative literature on the subject is modest. Relatively few independent assessments by academics or think tanks are available. Likewise, only a small number of 'internal' assessments have been conducted by government agencies or parliamentary committees. Some of the relevant literature is noted in appendices 3, 4 and 5. Of the more comprehensive assessments, the most recent include an edited volume by González-Ricoy and Gosseries,² a detailed survey of options by Boston³ and a shorter summary by Jones, O'Brien and Ryan.⁴

Second, and perhaps more importantly, whether these approaches succeeded in improving parliamentary scrutiny of long-term governance stewardship is hard to assess. There are several evaluative criteria, but most are difficult to apply. For instance, the following are among the possible criteria.

² I González-Ricoy & A Gosseries (eds) (2016) *Institutions for future generations*. Oxford: Oxford University Press.

³ J Boston (2017) *Governing for the future: Designing democratic institutions for a better tomorrow*. West Yorkshire: Emerald.

⁴ N Jones, M O'Brien & T Ryan (2017) *Rights and representation of future generations in United Kingdom policy-making*. Cambridge: Centre for the Study of Existential Risk, University of Cambridge. https://docs.wixstatic.com/ugd/06aa4b_986e44e264a7427b99223576e4161638.pdf

1. Durability – has the approach survived and, if so, for how long? Has the approach been modified significantly, perhaps in response to concerns about the merits of the original model?
2. Impact – has the approach affected governmental decision-making and policy outcomes?
3. Cost-effectiveness – is there evidence that the approach is value for money?

Of these criteria, the first is straightforward. It can be readily ascertained, for instance, whether a particular parliamentary institution or procedure has been retained or not, as well as whether it has been modified and, if so, in what ways and to what extent. The latter two criteria, however, are much more problematic because they raise fundamental issues of causation and attribution. How can we determine, in other words, whether a particular action or piece of advice is responsible for, or has contributed to, a particular policy decision or outcome? It might be claimed, for example, that various recommendations contained in a report by a parliamentary committee or advisory body have been accepted and implemented by the government. But this information, on its own, is not sufficient to determine whether the committee or advisory body has been influential. After all, the particular recommendations may only have been included because it was known in advance that the government would accept them. Indeed, ministers may have informally invited their inclusion, perhaps in order to give greater legitimacy and credibility to the government's planned decisions. For such reasons, any assessment of the six approaches outlined above must necessarily be cautious and tentative.

In what follows, we offer some brief reflections on several of the approaches adopted overseas with the aim of drawing lessons for New Zealand – both positive and negative – from their experience. Particular attention is given to the following examples:

1. the Finnish Parliament's Committee for the Future
2. Scotland's Futures Forum
3. the Knesset Commission for Future Generations (2001–2006) in Israel
4. the Future Generations Commissioner for Wales and the related legislative framework, the Well-being of Future Generations (Wales) Act 2015
5. the Parliamentary Office of Science and Technology in the United Kingdom Parliament.

Finland's Committee for the Future

Various parliamentary democracies have sought to enhance the quality of their long-term governance by establishing specialist bodies of various kinds within their legislatures that are dedicated to future-focused issues. Perhaps the best-known example is the Committee for the Future in the Finnish Parliament (the Eduskunta).

Valuing foresight and sound anticipatory governance

Finland has invested heavily in foresight over recent decades.⁵ Its current foresight system is the product of a distinctive and often painful history: a relatively small nation on the margins of Europe that has been vulnerable to aggressive neighbours (especially Russia) and repeated economic shocks, most recently the collapse of the Soviet Union in 1990 and the global financial crisis. The Finnish approach to foresight represents a deliberate and concerted endeavour by policy-makers to prepare for surprises, build a more resilient economy, maintain social cohesion and foster an innovative, forward-thinking, adaptive, learning culture. In short, the goal has been to enhance anticipatory governance.

The Finnish foresight framework has four separate, yet closely related, pillars:

1. an established practice since the early 1990s for governments to publish a *Report on the Future* during each parliamentary term (i.e., every four years)
2. a parliamentary Committee for the Future with a mandate to review the *Report on the Future*, investigate major long-term policy issues and consider the impact of important trends and developments, especially new and emerging technologies

⁵ The commentary on the Finnish Committee for the Future draws heavily on research undertaken by Jonathan Boston in Finland in 2014. See Boston, *Governing for the future*, above n 3, pp 401–417. See also B Groombridge (2006) Parliament and the future: Learning from Finland. *The Political Quarterly* 77(2): 273–280.

3. the coordination of foresight activities via a Government Foresight Network and a high-level Government Foresight Group, chaired by the Prime Minister's Office
4. a substantial investment in futures research, training and related activities, including a strong network of futures-oriented organisations.⁶

Purpose and role

The focus here is on the second pillar, namely the Committee for the Future. This was established in 1993 as one of the Eduskunta's 16 permanent committees. It has a mandate to operate as a legislative think tank on longer-term issues.

Interestingly, the Committee's creation was not universally welcomed. Opponents maintained that a futures-oriented committee was unnecessary because other committees could readily undertake inquiries on major long-term issues. Indeed, they contended that long-term thinking should be integral to the activities of every committee. Another concern was that a separate Committee for the Future would generate tensions with other committees over the allocation of responsibilities for certain types of inquiry. Opponents also objected to the absence of specific legislative or budgetary responsibilities for the proposed committee, in contrast to other Eduskunta committees.

In the event, those MPs favouring a permanent committee with a primary focus on long-term issues prevailed. As of early 2019, the Committee for the Future had 17 members (and additional deputy members) drawn from 10 of the 12 parties represented in the Eduskunta. Although not among the most powerful or sought-after committees, over the years it has attracted many highly capable and experienced MPs, including 'rising stars'.⁷ Many Committee members have subsequently secured leadership roles in their respective parties and/or become ministers.

From the outset, the Committee has had an active and varied work programme. It has produced numerous reports on a wide range of topics. In general, the members seek a consensus on their recommendations to the Eduskunta, but minority views are registered where unanimity is not possible.

During the parliamentary year, the Committee normally meets twice weekly for up to two hours at a time. Subcommittee activity is also substantial. The Committee is serviced by a small team of parliamentary staff, supplemented with assistance from part-time academic experts. As with other Eduskunta committees, however, the Committee has only a modest research budget (around €70,000 per annum). Hence, it can only commission reports from experts on a limited basis.

The Committee undertakes four main functions:

1. preparing responses for the Eduskunta on the government's periodic *Reports on the Future*⁸
2. responding to requests from other Eduskunta committees to address issues with long-term implications
3. initiating and conducting its own inquiries into long-term issues
4. assessing the societal impacts of new or emerging technologies.⁹

⁶ These include the Finnish Society for Futures Studies (established in 1980), the Finland Futures Research Centre (established in 1992) based at the University of Turku, and the Finland Futures Academy (a national university-based network established in 1998), together with dedicated foresight units in various government agencies.

⁷ P Tiihonen (2011) *Revamping the work of the Committee for the Future*. Committee for the Future. https://www.eduskunta.fi/FI/tietoaeduskunnasta/julkaisut/Documents/tuvj_7+2011.pdf, p 13.

⁸ To date, the Committee has prepared at least seven responses to the government's *Reports on the Future*: 1. *An enabling state – experimenting Finland* (2014). https://www.eduskunta.fi/FI/tietoaeduskunnasta/julkaisut/Documents/tuvj_10+2014.pdf; 2. *Courage Policy – a lot of work, low emissions* (2010); 3. *A good society for people of all ages* (2005); 4. *A Finland of balanced development 2015* (2002); 5. Part 2: *Honest and courageous: A Finland of responsibility and competence* (1998); 6. Part 1, *Finland and the future of Europe* (1997); 7. Government's report on the long-term future (1994). Note that the government's most recent report – which focuses on the transformation of work – was produced in two parts, the first in June 2017 and the second in October 2018. At the time of writing, the Committee for the Future was yet to publish a response to the report.

⁹ Tiihonen, *Revamping the work of the Committee for the Future*, above n 7, p 9.

The work programme of the Committee is generally determined at the beginning of each parliamentary term following consultation among the parliamentary parties and with due regard to the likely timing and contents of the government's *Report on the Future*. During the 2011–2015 parliamentary term, for instance, seven topics were addressed:

1. sustainable growth, focusing on concrete measures to encourage economic growth that are consistent with environmental sustainability
2. an inspired society, examining the conditions for entrepreneurship and how such conditions can be fostered
3. acquiring new knowledge, exploring best practice in education with the aim of lifting Finland's (already impressive) educational performance
4. the future of the welfare society, focusing on the causes and consequences of wellbeing, and identifying ideal welfare state models
5. black swans, which took the form of a writing competition during 2012, from which the best entries were published as a book
6. crowd-sourcing, exploring how the Committee can better engage citizens via social media
7. radical technologies, drawing together research on major technological innovations and trends, and endeavouring to detect 'weak signals' in relation to future technological developments.

Much of the inquiry work is undertaken by subcommittees. Procedures vary, but often include seminars, workshops, expert hearings, input from academic advisors, fact-finding missions, and occasional consultation with relevant stakeholders and the wider public. Where members have relevant expertise and the time to do so, they may undertake substantial independent research of their own. Well over 40 significant reports have been produced since the mid-1990s. Topics covered include the future of work, the future of democracy, health care, climate change, the implications of research on the human genome and stem cells, the policy challenges posed by population ageing, the social responsibilities of companies, the implications of the development of information and communications technology (ICT), cooperation between China and Finland on green growth, and the implications of having Russia as a neighbour.¹⁰ While some of these topics coincide with the responsibilities of other Eduskunta committees, such overlaps do not appear to have caused major tensions. In part, this is because the Committee has relied significantly on foresight techniques and methods, such as horizon scanning, trend analysis and scenario analysis, which are less commonly employed by other committees.

Impact

One of the risks facing a parliamentary committee that focuses primarily on longer-term issues is that it may lack political salience and influence. After all, detailed reports on problems that may not impact on a society until well beyond the next election can readily be overlooked or disregarded by busy policy-makers faced with a constant barrage of pressing matters requiring their urgent attention. Given this risk, the Committee for the Future's very survival for more than a generation indicates a measure of success. It suggests that sufficient numbers of Finnish parliamentarians believe that the Committee makes a valuable contribution to the policy process – or at least that the political costs of disbanding the Committee are too high. Indeed, no evidence suggests otherwise.¹¹

But to understand the survival and influence of the Committee, several matters require mention. First, as noted, the exercise of foresight is strongly valued within Finland's political culture. Governments of all persuasions have thus been willing to invest in futures thinking to a greater extent than in many other small democracies. Without this commitment and orientation, the Committee would operate in a less favourable political environment.

Second, as noted, the Committee forms part of a broader foresight ecosystem. This includes a vital commitment device in the form of a requirement for governments to produce regular forward-looking

¹⁰ Only a few of these reports have been translated in full into English, but short summaries are often provided in English.

¹¹ See Boston, *Governing for the future*, above n 3; Tiihonen, *Revamping the work of the Committee for the Future*, above n 7.

reports. This requirement binds Finnish governments to the mast of futures thinking. Their reports, in turn, provide a crucial parliamentary hook: they supply the Committee with an automatic *raison d'être*; they give the Committee a degree of legitimacy and credibility; and they provide an overarching framework, as well as a specific timetable, within which to operate. In the absence of such reports, a committee of this nature might struggle more keenly for political traction.

Third, the Committee's outputs appear to be generally well regarded. In some cases, clear evidence indicates that the government has taken the Committee's findings and recommendations seriously. Without outputs of an adequate quality, the Committee's influence would inevitably be weakened. One implication of the need for such respect is the importance of attracting parliamentarians of sufficient standing and expertise to serve on such a committee, and to resource it adequately so that it can undertake in-depth inquiries.

Fourth, the Committee has played a significant role in educating MPs on using foresight methodologies and risk analysis. In so doing, it has increased their awareness of the long-term challenges facing Finland, fostered a deeper cross-party appreciation of the options for meeting these challenges and created a safe space for independent inquiry and lateral thinking. By such means, the Committee's standing and durability have been reinforced.

But to what extent has the Committee enhanced parliamentary scrutiny of the Finnish government in relation to matters of stewardship and long-term governance? And is such scrutiny better in Finland than in other parliamentary democracies?

Such questions are difficult to answer. Clearly, the Committee contributes to the governmental scrutiny process by virtue of its role in assessing and critiquing the periodic *Reports on the Future* and in undertaking in-depth inquiries. However, the Committee is but one of 16, and many of the Eduskunta's other committees address matters of governmental stewardship in their specific spheres of responsibility. Moreover, if no Committee for the Future existed, it must be presumed that the Eduskunta would find some other means to review the *Reports on the Future*. Against this, having a Committee dedicated to such activities necessarily increases the political incentives to produce sound reports and commit additional resources for this purpose. The Committee provides an in-built legislative champion and voice for the future. Its presence also increases the chances that MPs will address important, complex long-term challenges and expose future scenarios and policy options to critical, independent analysis.

More broadly, however, committees of this nature cannot ensure that governments exercise prudent stewardship or produce path-breaking reports on protecting a society's long-term interests. They cannot fundamentally change the structure of intertemporal preferences in a democracy or radically alter the political incentives facing decision-makers. Nor can they overcome the inherent pressures on government backbench MPs to protect their ministerial colleagues from criticism or embarrassment. In short, as noted in chapter 5, in parliamentary democracies, legislative scrutiny of the executive, including long-term governance, will always be constrained by partisan politics.

Scotland's Futures Forum

Purpose

Scotland's Futures Forum was established under the auspices of the Scottish Parliament, but it is not a committee or formal part of the parliamentary structure carrying out the legislature's business. Rather than being a vehicle for scrutiny, its purpose is to engage people with long-term issues affecting Scotland, and also to promote research to this end. The Forum "works on a non-party basis to stimulate debate, looking beyond the electoral cycle, on the long-term challenges and opportunities that Scotland faces".¹² It deliberately seeks to "challenge the body politic against short-termism".¹³

¹² Scotland's Futures Forum (2018) *Scotland's Futures Forum: SPCB (2018) Paper 80*, p 4. [http://www.parliament.scot/SPCB/2018/SPCB\(2018\)Paper_080.pdf](http://www.parliament.scot/SPCB/2018/SPCB(2018)Paper_080.pdf)

¹³ Ibid.

When the Forum was created in 2005, it was set up as an institution that would be inclusive of civic society and encourage participation. It was also to be open to collaboration with organisations that promoted public debate, inquiry and innovation.

Structure and support

The Forum was established as a company owned by the Scottish Parliamentary Corporate Body, but with a board of directors comprising leaders from the business world, academia, arts sector and public service, as well as a cross-party assortment of members of the Scottish Parliament (MSPs). The arrangement of the Forum at arm's length from the Parliament encourages partnerships with other bodies and fosters a less formal context in which people can engage with MSPs about long-term issues.¹⁴ The Parliament's Presiding Officer chairs the board, is the Forum's main champion and spokesperson, and also is often involved in chairing and facilitating Forum events.

While ministers can choose to participate in Forum activities,¹⁵ and public servants frequently attend and contribute to its activities, the Forum is affiliated with the Parliament, rather than the Government. Governing parties are represented on the board along with other parties.

For much of its life to date, the Forum has retained a staff member, on secondment from the Parliamentary Service, to organise and deliver events and projects, develop partnerships and provide executive assistance to the board. The Forum initially was staffed with two full-time positions, based on a business model that attracted funding for particular projects. The model was adjusted to one full-time position in 2011 and moved to a partnership approach in 2013 in recognition of tight budgets in both the public and private sectors. The Parliament agreed in 2018 to increase the Forum's funding so that it could re-establish a second staff position. This decision reflected a desire for the Forum to undertake more events and projects, and was a sign of the Forum's success and cross-party support. The Forum's funding from the Parliament for 2018–19 was £139,900, increasing to £151,600 in the next year, including both staff remuneration and project funding.

The Forum receives various kinds of support from the Scottish Parliamentary Service within the service's baseline funding. Such support includes desk space, information technology support, event support (including use of the Parliament's event spaces), and ad hoc support, advice and collaboration from colleagues in the clerking offices and Scottish Parliament Information Centre.

The structure of the Forum deliberately emphasises links with external bodies, which encourages the co-production and sponsorship of events. When the continuation of the Forum was reaffirmed in 2011, its business model was adjusted to make it more conducive to the development of collaborations with external bodies. Guest speakers and experts tend to participate without charge, and many events and projects have resulted from partnerships with thought-leading Scottish organisations, such as the Royal Society of Edinburgh, David Hume Institute, Scottish Leaders Forum and the Scottish Universities Insight Institute. An ongoing strategic partnership has been formed with the Goodison Group in Scotland, which is a charity dedicated to issues of learning through life.¹⁶ Partnerships can include financial contributions for projects that are co produced, and also can involve the provision of multidisciplinary expertise and other resources to assist engagement and the preparation of reports.¹⁷

¹⁴ Ibid, p 5.

¹⁵ For example, the First Minister, Nicola Sturgeon, featured in a video, *Our Future Scotland*, which was produced by the Forum as part of the launch of one of its projects.

¹⁶ See Scotland's Futures Forum (nd) *Who we work with*. <http://www.scotlandfutureforum.org/about/who-we-work-with/>

¹⁷ See Scotland's Futures Forum (2013) *Scotland's Futures Forum: Leadership group, LG (2013) Paper 037*, p 6. http://www.parliament.scot/LeadershipGroup/LG_2013_Paper_037_-_Scotlands_Futures_Forum.pdf

Events and activities

The Forum's activities centre on events that vary in scale from one-off lectures and seminars and 'mini-series' conversations to major thematically driven programmes.¹⁸ Events are supported by social media, videos and a website providing specially commissioned seminar papers and a library of supplementary material. This electronic library provides a medium for making available the research of expert advisors and other participants through the life of a project.¹⁹ The aim is to generate discussion before and after events and in communities beyond those who are able to attend in person. Such events and programmes have led to reports to the Parliament, and even – in at least one case – a submission to a parliamentary committee providing a non-partisan summary of issues emerging from a Forum event on the topic at hand.²⁰

An important undertaking for the Forum, soon after its establishment, was a project to answer the question: "How can Scotland reduce the damage to its population through alcohol and drugs by half by 2025?". The project comprised a conference to define the question and identify dimensions of the problem, data gathering, expert input, consultation, and systems analysis and mapping of solutions. From this process, which was overseen by a project board, the Forum published a substantive report that expressed a detailed vision for reducing alcohol and drug harm.²¹

In March 2017, the Forum launched its major *Scotland 2030* Programme, which is expected to continue over a number of years. It provides a platform for MSPs, guest speakers and contributors, and the public to explore Scotland's culture and society and the nation's aspirations for 2030 and beyond. This occurs primarily through a series of seminars and discussions where people present their different visions and raise issues that they expect to shape Scotland's future. An impressive array of events has taken place since the programme began, dealing with a wide variety of topics.²²

As part of the Scotland 2030 Programme, the Forum has undertaken the *#OurFutureScotland* Project. This project, which is a collaboration with the Royal Society of Edinburgh's Young Academy of Scotland, employs video and other engagement tools to capture the aspirations of people from throughout Scotland for how they would like the nation to be, as a place to live, in 2030.

The Forum also can consider important issues of public concern after being invited to do so by the Presiding Officer and MSPs.²³

Longevity and impact

Scotland's Futures Forum now has a reasonable record of longevity: after more than 13 years of activity it has a busy programme, continued cross-party support and productive partnerships, and has recently received a boost to its funding from the Scottish Parliament. When the Commission on Parliamentary Reform examined the effective working and engagement of the Scottish Parliament in 2017, it considered the Parliament's approach to long-term issues and expressed its view that "The Forum is well regarded

¹⁸ For an illustration of the breadth of the Forum's activities over a five-year period, see S Wilson (2016) *Scotland's Futures Forum: A guide and legacy report for the 2011–2016 parliamentary session*. Edinburgh: Scottish Parliament and Scotland's Futures Forum. <https://spark.adobe.com/page/6fofj/>

¹⁹ Scotland's Futures Forum (2007) Future Forum goes online with alcohol and drugs latest developments. News release, 9 March. <http://www.parliament.scot/newsandmediacentre/26159.aspx>

²⁰ Scotland's Futures Forum (2017) Scotland's economic performance. Submission on the Economy, Jobs and Fair Work Committee's inquiry into Scotland's economic performance. https://www.parliament.scot/S5_EconomyJobsFairWork/Inquiries/PSE025-SFF.pdf

²¹ Scotland's Futures Forum (2008) *Approaches to alcohol and drugs in Scotland: A question of architecture*. http://www.scotlandfutureforum.org/wp-content/uploads/2018/02/2008_AlcoholDrugs_QuestionOfArchitecture_rpt.pdf

²² Topics have included: Early Years; Growing Up in Future Scotland; Primary School; Secondary Education; The Technological Context; Technology and Society; Young People and Technology; Work in a Gender Equal Country; Drugs in Scotland; Autonomous Vehicles: Challenges and Opportunities for the Future; Our Food Future; A Sustainable Future for Scotland's Public Finances; Growing Older in Future Scotland; Housing and Ageing; Death and Dying (see www.scotlandfutureforum.org).

²³ In April 2018, a cross-party group of MSPs and former Presiding Officers requested that the Forum consider the issue of drug use in Scotland. <http://www.scotlandfutureforum.org/drugs-in-scotland-msps-request-review/>

and has a proven track record in stimulating debate on the challenges facing Scotland in the long-term".²⁴ However, the Commission found that the Parliament could make better use of the Forum:²⁵

We consider more could be done to capitalise on the work of the Forum in Parliament and to provide for greater connection between MSPs, committees and the Forum's work. As an external company, it has the potential to consider issues unconstrained by Parliament's rules and timescales and can act as an institutional knowledge bank over sessions, available to be used by future MSPs.

One of the advantages of the Forum is that it draws on a diverse range of expertise and knowledge when identifying its work programme. A possible concern may be that demands for parliamentary scrutiny could crowd out its more innovative work.

Given the importance that any work is of benefit to members, a process of regular engagement between the Forum and MSPs should be considered, including chamber or committee time for debating the outcomes of any work. This approach also offers opportunities for the Forum to commission research and be innovative in how, and with whom, it engages in its work.

A remaining ongoing challenge is both to engage with a broader base of MSPs and promote the use of the information in a way that is easily accessible to the public. In its report, the Commission on Parliamentary Reform recommended instituting processes to engage MSPs – particularly from the backbenches – in proposing issues for the Forum to include in its work programme.²⁶ The Forum's board agreed that there were "clear opportunities for MSPs and the Parliament more widely to participate in the process of identifying and agreeing issues to investigate". It also indicated that the process for determining the Forum's 18-month work programme "should start and end with the Futures Forum Board, with input from MSPs and others in the middle", and that this process would include a general call for ideas from MSPs and staff.²⁷

A 2018 review of futures institutions by University of Cambridge academics included a brief assessment of the Forum. They expressed the view that the Forum "is laudable for making an active effort to directly promote longer term thinking in decision making". Their study noted that having "a multi-disciplinary team working on the issues" was beneficial, and that the Forum's agenda-setting was independent from Government.²⁸ On the other hand, they considered that "it is hard to assess the impact of these educational events on policy making in general", and that the Forum has "thus far been limited in scope", partly because it has been constrained by the limited nature of devolution from the UK Parliament.²⁹

At an occasion to mark 10 years since the culmination of the Forum's major drugs and alcohol project, it was observed that a number of recommendations relating to alcohol had had reasonable traction, while there was frustration that drugs recommendations hadn't received as much political support. The overall outcome of the Forum process, which was to recommend an approach to drugs policy as a public health issue, was seen as having had an impact on Scottish Government policy. Forum staff have also noted evidence of some impact from the Forum's major projects: the Government picked up some of its recommendations in a strategy on ageing;³⁰ scenarios the Forum prepared as part of a project on Scotland as a world-leading

²⁴ Commission on Parliamentary Reform (2007) *Report on the Scottish Parliament*. Edinburgh: Commission on Parliamentary Reform, p 202. <https://test123582.files.wordpress.com/2016/10/commissiononparliamentaryreformreport-june20171.pdf>. The Commission was a panel established by the Presiding Officer in 2016 to review how the Scottish Parliament had developed since its inception and to recommend ways to improve the Parliament's effectiveness and public engagement. The Commission comprised a chair, an MSP representative of each of the Parliament's five parties, and five other non-MSP members, appointed by the Presiding Officer. The Commission's recommendations were not binding on the Parliament, but the Parliament's Standards, Procedures, and Public Appointments Committee is progressively considering how to reflect the recommendations in the Parliament's procedures.

²⁵ *Ibid*, pp 203–205.

²⁶ *Ibid*, pp R40 and R41.

²⁷ Scotland's Futures Forum (2018) *Commission on Parliamentary Reform: Scotland's Futures Forum*. [http://www.parliament.scot/images/SPCB/SPCB\(2018\)Paper_029.pdf](http://www.parliament.scot/images/SPCB/SPCB(2018)Paper_029.pdf)

²⁸ *Ibid*, p 2.7.

²⁹ N Jones, M O'Brien & T Ryan (2018) Representation of future generations in United Kingdom policy-making. *Futures* 102, p 2.5.

³⁰ Scotland's Futures Forum (2007) *Growing older and wiser together*. <http://www.scotlandfutureforum.org/growing-older-and-wiser-together/>

learning nation in 2025 have been widely used;³¹ and the redrafting of the National Performance Framework made use of the Forum's input on the place of wellbeing within policy-making.

One important feature of the Forum is that it is relatively low-cost. It is designed to maximise leverage from outside organisations and interested participants, so that events are funded in partnership with other institutions and expertise is provided at low cost or pro bono. Partnerships are with respected non-partisan organisations and are relatively transparent. This approach would seem to minimise the possibility of the Forum receiving criticism for being an expensive talk-fest or captured by interest groups.

The Forum clearly has value as a channel for public engagement with the Parliament. While not a scrutiny mechanism, it provides an important avenue for the exercise of the Parliament's representative function, as an established platform for MSPs and civic society to connect in airing diverse perspectives about the nation's future. The Forum fosters cross-party dialogue, generates an evidence base through expert involvement, adds value through partnerships and multidisciplinary collaboration, and enables public participation in articulating possibilities and concerns about Scotland's future direction.

Implications for New Zealand

The Scottish Parliament is relatively comparable to the New Zealand House of Representatives, in both size and electoral system. On the other hand, the Scottish Parliament has determinedly moved away from Westminster traditions, and was established on the basis of key principles of power-sharing, openness and participation.³² It is not free from confrontations – indeed, the Parliament is less consensual than anticipated – but over the two decades since its inception it has “made good progress in delivering the vision of an open, participative, power-sharing accountable Parliament with equal access for all”.³³ The Scottish political context therefore appears to have been relatively amenable to the establishment of a cross-party forum with ongoing buy-in from across the Parliament.

Any attempt to set up a similar body in New Zealand, with its adversarial landscape, would need to establish the broad support of parties first. However, there may be the potential for securing such support: Chapter 5 noted that MPs readily form cross-party groups in respect of international relations, and the Globe-NZ experience presents an exemplar of collaboration on a future-focused project. MPs also engage regularly in such gatherings as the Australasian Study of Parliament Group. A futures forum established in association with the Parliament of New Zealand would align well with the recently adopted Parliament Engagement Strategy, which prioritises engagement in parliamentary conversations, seeks to enhance the public perception of Parliament and aims to inspire future voters.³⁴ The emphasis on developing partnerships with respected, thought-leading institutions would potentially provide MPs with useful contacts and a valuable framework for innovative thinking and evidence-based insight. Importantly, the collaboration model also provides ready access to relevant expertise and good value for the public dollar. Overall, Scotland's Futures Forum provides a constructive template for developing future-focused public discussion in a parliamentary context, with cross-party support and oversight.

³¹ Scotland's Futures Forum and Goodison Group (2013) *By 2025, Scotland will be regarded as a world-leading learning nation*. <http://www.scotlandfutureforum.org/by-2025-scotland-will-be-regarded-as-a-world-leading-learning-nation/>

³² Consultative Steering Group (1998) *Shaping Scotland's Parliament*. Scottish Office. https://www.parliament.scot/PublicInformationdocuments/Report_of_the_Consultative_Steering_Group.pdf

³³ Commission on Parliamentary Reform (2017) *Report on the Scottish Parliament*, pp 1–3.

³⁴ OOC (2018) *Parliament Engagement Strategy 2018–2021*. <https://www.parliament.nz/media/5268/parliament-engagement-strategy-2018-2021.pdf>

Israel's Knesset Commission for Future Generations (2001–2006)

Purpose and role

The Knesset Commission for Future Generations was established in 2001 via an amendment to the Knesset Law (1994) and served members of the Knesset (the Israeli Parliament) until 2006.³⁵ It was headed by a Commissioner, Justice Shlomo Shoham, who was appointed by the Speaker for a five-year term on advice from an ad hoc parliamentary committee. Justice Shoham had previously served as the legal advisor to the Knesset's Constitution, Law and Justice Committee. When his term ended, no new Commissioner was appointed. In effect, this terminated the work of the Commission. Some years later, in December 2010, the Knesset Plenum approved a bill to disband the Commission. The short-lived nature of the Commission serves as a cautionary tale.

The rationale for the Commission was to help protect the interests of future generations by ensuring that Israeli legislators and the wider policy community were properly informed about the potential long-term consequences of proposed legislation (including secondary legislation). Under section 32 of the Knesset Law, the Commission's four main functions were to:

1. give advice on bills brought before the Knesset Plenum that were of concern to future generations
2. give advice on secondary legislation and regulations (proposed by the government and under consideration by parliamentary committees) that were of concern to future generations
3. present reports, with recommendations, to the Knesset on any matter that the Commissioner considered to be important to future generations
4. provide members of the Knesset with advice on matters with particular relevance to future generations.

Under the Knesset Law, the Commissioner had authority, at least in principle, to comment on all policy matters except those relating to defence and foreign affairs. This authority included the right to address any issues under consideration by the Constitution, Law and Justice Committee that were thought likely to impact on future generations. The Commissioner's wide powers included: access to all bills, regulations and government information; the right to attend meetings of parliamentary committees; the right to participate in committee proceedings; and the opportunity to offer advice on legislative initiatives at various stages during the parliamentary process. Moreover, the Commissioner had the right not merely to advise legislators on proposed legislation but also to draft bills and propose other policy initiatives to protect the interests of future generations. While lacking formal decision-making rights, the Commissioner could, in certain circumstances, delay the legislative process and so postpone decisions, potentially altering the outcome of deliberations.

The Commissioner was assisted by a small staff (about four) and a Public Council. The latter body comprised scientists, researchers with expertise on future-related issues, and other prominent citizens. His offices were located within the Knesset, giving him ready access to legislators.

As a parliamentary institution, the Commission was responsible to the Knesset rather than the executive. While its primary mission was not to scrutinise the quality of the executive's long-term governance, its role certainly involved providing parliamentarians with information, analysis and advice that could assist them in undertaking this task. Indeed, given its mandate, the Commission was ideally placed to assess the government's legislative agenda from an intergenerational perspective and expose important gaps, deficiencies or risks.

³⁵ See, for instance, Boston, *Governing for the future*, above n 3, pp 324–331; M Göpel (2011) Guarding our future: How to protect future generations. *Solutions* 1(6): 1–8; M Göpel & M Arhelger (2010) How to protect future generations' rights in European governance. *Intergenerational Justice Review* 10(1): 3–9; S Shoham & N Lamay (2006) Commission for Future Generations in the Knesset: Lessons learnt. In JC Tremmel (Ed) *Handbook of Intergenerational Justice* (pp 244–281). Cheltenham: Edward Elgar; S Shoham (2010) The role of the state in the protection of future generations. *Intergenerational Justice Review* 10(1): 37–39; N Teschner (2013) *Official bodies that deal with the needs of future generations and sustainable development: Comparative review*. Jerusalem: Knesset Research and Information Centre.

Impact and demise

From all accounts, the Commission undertook some useful reviews and provided advice to parliamentarians on many legislative matters. But its impact on policy-making appears to have been limited. Some of its most important recommendations (e.g., to enact legislation to place the pursuit of sustainable development on a constitutional basis) were rejected by the government. Moreover, as noted, the institution survived barely five years.

One explanation for the quick demise lies in the Commissioner's *modus operandi*, including tensions with influential parliamentarians. Yet it was not necessary to abolish the institution to resolve such matters; in due course, a new Commissioner could have been appointed. The failure to preserve the institution points to deeper problems. Four deserve mention.³⁶

First, any commission – be it in Israel or elsewhere and be it a parliamentary or an executive entity – with a broad-ranging brief to promote and protect the interests of future generations faces formidable challenges. Some of these are fundamentally philosophical, conceptual or ethical; others are more practical or operational. Among the former are questions about how the interests of future generations are best conceptualised and how, in the face of deep uncertainty, such interests should be protected. Inevitably, such matters are political in nature; they involve ethical judgements and policy trade-offs; and parties often disagree about them. Hence, whatever policy position a commission advances, it runs the risk of being perceived to favour one particular party (or parties) over another (or others). For any independent body, this poses inevitable dangers.

Among the latter challenges are those arising from scarce resources (e.g., of time, capacity and political capital) and hence the need to prioritise. The Commission's mandate was both broad and exacting. Most legislative initiatives have intertemporal implications, even if such implications are inherently difficult to predict and assess. Potentially, therefore, very little of the Knesset's legislative activity was out of scope. Yet with a tiny staff, the Commission could not realistically comment on every Bill, let alone every set of regulations.

Second, some legislators questioned the nature and scope of the Commission's mandate, not least the right to speak in Knesset committees, to offer advice at any stage of the legislative process and, as a last resort, to delay temporarily the passage of legislation. In short, the Commission was perceived as having too much independence and authority. No doubt such perceptions were partly influenced by the Commission's advocacy of policy positions that were contrary to the preferences of certain parties. Nonetheless, the situation illustrates how a broad mandate and significant intervention rights can be a two-edged sword for any entity operating in a highly political environment.

Third, the Commission was launched in the shadow of public disquiet over the Knesset's expanding budget, along with vigorous media criticism over funding an institution to represent future generations while many pressing short-term needs remained. Accordingly, the Commission began its work on the back foot. Concerns over the cost of its operations persisted, not least because of some legislators' concerns that it duplicated the work of existing parliamentary institutions (notably, the Knesset Research and Information Centre) and executive agencies.³⁷

Fourth, and related to the third problem, the rationale for a Commission for Future Generations had, at best, only tenuous support among Israel's political elite. It was not the product of vigorous advocacy by civil society groups or popular demand. Nor did it arise from the recommendations of a high-level commission of inquiry or a multiparty consensus (following extensive deliberations) over the best ways to protect the interests of future generations. Instead, the Commission was largely the brainchild of a centrist politician, Joseph (Tommy) Lapid, who led the secularist Shinui party between 1999 and 2006. Lapid served briefly (2003–2004) as the Deputy Prime Minister and Minister of Justice in a coalition government led by Ariel Sharon. With his retirement from politics at the general election in March 2006, the Commission lost its leading champion.

³⁶ Shoham & Lamay, *Commission for Future Generations in the Knesset*, *ibid*; Teschner, *Official bodies that deal with the needs of future generations and sustainable development*, *ibid*.

³⁷ Teschner, *Official bodies that deal with the needs of future generations and sustainable development*, *ibid*.

Such factors highlight not only the critical role that individual policy-makers can play in securing institutional reform or encouraging policy innovation, but also that the durability of institutions – even those with a statutory mandate – cannot be taken for granted. If they lack strong and widespread public endorsement or fail to attract sufficient cross-party support, they are inevitably vulnerable to fluctuating political tides. In the case of the Commission for Future Generations, changes of government, shifting parliamentary alliances, the fragmented and relatively unstable nature of Israel’s party system, and ongoing budgetary pressures all contributed to its limited life.

The Future Generations Commissioner for Wales (2016–) and the Well-being of Future Generations (Wales) Act 2015

Since the late 1990s, when the British Parliament devolved various powers to Wales (under the Government of Wales Act 1998), the Welsh Government and the Welsh National Assembly have been active in promoting sustainable development and seeking ways to protect the interests and wellbeing of future generations. Of particular relevance to this project was the enactment of the Well-being of Future Generations (Wales) Act 2015 (the Well-being Act).³⁸ This innovative, ground-breaking piece of legislation, among other things, enunciated seven ‘well-being goals’, placed a legal obligation on numerous public bodies to undertake sustainable development and created a new independent institution – the Future Generations Commissioner for Wales. The structure, contents, implementation and implications of the Well-being Act will be considered further below, but first it is necessary to understand the constitutional and policy context within which this legislation was formulated and enacted.

The Welsh constitutional and policy context

Although part of the United Kingdom for the best part of a millennium, Wales has a distinctive history, culture, language and traditions. It is smaller than Scotland, both in geography and population, with about three million people. Since a landmark referendum on devolution in 1997, the powers and responsibilities of the Welsh Government and Assembly have gradually been extended, to the point that they achieved powers over borrowing and taxation in 2014 (which took effect in 2016). The Welsh Assembly, which was established following elections in May 1999, is small, with only 60 members. Accordingly, it has a very limited pool of people to serve as ministers and undertake the normal responsibilities of a legislature (i.e., scrutinising and enacting legislation, conducting inquiries and holding public agencies to account for their performance). It has a fixed parliamentary term of five years, although legislative provisions allow changes to the normal process under certain conditions. Initially, the Welsh Government and Assembly constituted a unified institution but, following the recommendations of an independent review in 2004, their responsibilities were legally separated via the Government of Wales Act 2006.

Significantly for this report, the Government of Wales Act 1998 imposed a duty on the new Welsh Assembly to pursue the objective of ‘sustainable development’. Under section 121, the Assembly was required to “make a scheme setting out how it proposes, in the exercise of its functions, to promote sustainable development”, to publish the scheme and keep it “under review”, and, after each election, to remake or revise the scheme and assess its effectiveness. Similar provisions were included in section 79 of the Government of Wales Act 2006, although in this instance the duty to prepare a “sustainable development scheme” and “promote sustainable development” was placed on Welsh ministers rather than the Assembly. The primary role of the Assembly, in this context, is to review the government’s performance in fulfilling its legal obligations.

Since the early 2000s the Welsh authorities, together with the wider policy community and researchers, have given considerable thought to how best to fulfil these legal obligations and enhance the quality of the nation’s long-term governance. A detailed account of this evolving journey is beyond the scope of this

³⁸ For full details of the Well-being Act, including its development and implementation, see <http://www.senedd.assembly.wales/mgIssueHistoryHome.aspx?IId=10103>; <http://futuregenerations.wales/about-us/future-generations-act/>.

report.³⁹ Nevertheless, key developments included a commitment in the Welsh Labour party's 2011 election manifesto to making sustainable development a 'central organising principle' of government, and the subsequent decision of the Labour government led by First Minister Carwyn Jones to enact legislation to give effect to this objective during its 2011–16 term in office. The process of developing this legislation involved extensive public consultations, the preparation of green and white papers on sustainable development during 2012, and a national conversation on 'The Wales We Want' launched in early 2014 (which involved thousands of people through public forums and social media). During this lengthy process, the authorities drew heavily on international evidence, models and experience, not least the contemporaneous process under way through the United Nations to replace the Millennium Development Goals (2000–15) with the Sustainable Development Goals (2015–30).

The Well-being of Future Generations (Wales) Act 2015

The Well-being of Future Generations (Wales) Act was eventually enacted in 2015 with support from all the parties in the Welsh Assembly other than the Conservatives. In summary, the Well-being Act creates (or strengthens) a series of commitment devices designed to protect and improve the wellbeing of current and future generations. These devices include: the enunciation of various statutory principles and goals; a requirement for public bodies to "carry out sustainable development" and to do so in accordance with particular ways of working; a requirement for ministers to set wellbeing objectives and regularly assess their performance; and the creation of new institutional mechanisms to provide advice, monitoring and reporting.

More specifically the Well-being Act:

1. defines 'sustainable development' as "the process of improving the economic, social, environmental and cultural well-being of Wales by taking action, in accordance with the sustainable development principle" with the aim of "achieving the well-being goals" (s 2)
2. defines the 'sustainable development principle' – in line with the 1987 Brundtland Report definition – as seeking "to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs" (s 5)
3. enunciates seven statutory 'well-being goals', with related descriptions of their meaning (s 4). In brief, the goals are: a prosperous Wales; a resilient Wales; a healthier Wales; a more equal Wales; a Wales of cohesive communities; a Wales of vibrant culture and thriving Welsh language; and a globally responsible Wales (s 4)
4. places a legal obligation on all public bodies covered by the legislation to "carry out sustainable development", including a requirement to set and publish "well-being objectives", to take "all reasonable steps" to meet those objectives (s 3) and to report on progress annually (s 13). In pursuing sustainable development, public bodies are required to "take account" of five specified ways of working; namely, to adopt a long-term perspective, take an integrated approach, involve citizens, collaborate and pursue a preventive approach
5. places a legal obligation on Welsh ministers to:
 - a. publish wellbeing objectives
 - b. publish national indicators designed to measure progress towards the achievement of the seven wellbeing goals
 - c. set milestones in relation to the national indicators in order to measure progress
 - d. publish an annual wellbeing report outlining progress (i.e., with reference to the wellbeing objectives, indicators and milestones)
 - e. publish a report every electoral term containing "predictions of likely future trends" in the four kinds of wellbeing (ss 10–12)

³⁹ See H Davies (2016) The Well-being of Future Generations (Wales) Act 2015: Duties or aspirations? *Environmental Law Review* 18(1): 41–56; M Munday & A Roberts (2006) Developing approaches to measuring and monitoring sustainable development in Wales: A review. *Regional Studies* 40(5): 535–554, DOI: 10.1080/00343400600757726; A Nicholl & J Ormond (eds) (2012) *Wales' central organising principle: Legislating for sustainable development*. Cardiff: Institute of Welsh Affairs.

6. places a legal obligation on the Auditor General of Wales to assess periodically the extent to which public bodies have acted in accordance with the principle of sustainable development (s 15)
7. requires the establishment of public service boards in each Welsh local authority area with responsibilities, among other things, to prepare 'local well-being plans' that set out each board's "local objectives and the steps it proposes to take to meet them" (ss 29–45)
8. creates an independent Future Generations Commissioner with responsibilities to, among other things:
 - a. "promote the sustainable development principle"
 - b. "act as a guardian of the ability of future generations to meet their needs"
 - c. "encourage public bodies to take greater account of the long-term impact" of their activities
 - d. "monitor and assess the extent to which well-being objectives set by public bodies are being met"
 - e. publish periodically a report on how public bodies can improve the way they pursue their wellbeing objectives and give expression to the principle of sustainable development (ss 18–24).

In relation to reporting, the Well-being Act requires the government to table the following documents in the Assembly (see ss 10–12, 15, 23):

- national indicators for measuring progress towards achieving the seven wellbeing goals, and revised national indicators and milestones, if and when such revisions occur
- an annual wellbeing report on progress made towards meeting the seven wellbeing goals, with appropriate reference to the national indicators and milestones
- a report on future trends to be published within 12 months of each Assembly election.

In addition, other reports must be presented:

- the results of the Auditor General's four-yearly examinations of the extent to which each public body has acted in accordance with the sustainable development principle in setting wellbeing objectives and taking steps to meet them
- a periodic future generations report, prepared by the Future Generations Commissioner, with an assessment of the improvements public bodies should make to set and meet wellbeing objectives in accordance with the sustainable development principle.

Without question, the Well-being Act is comprehensive, ambitious and demanding. It is the first legislation of its kind anywhere in the world. It imposes significant new obligations on public bodies with respect to not only their overall goals but also their ways of working. It establishes a detailed framework for setting national indicators, objectives and goals, assessing trends, monitoring performance and holding ministers and public bodies to account. It has considerable potential, given time, to reframe the mind-sets and strategies of governmental decision-makers and public institutions, modify intertemporal preferences, alter budgetary priorities and change how public bodies conduct their activities and engage with citizens and other stakeholders. Already, it has contributed to some innovative thinking in a number of policy areas (e.g., in relation to the nature of 'prevention' and how a focus on prevention, as required by the Well-being Act, can be incorporated into budgetary policy-making).⁴⁰

Yet it will be many years, if not decades, before it is possible to properly assess how effective the Well-being Act has been in achieving its overall purposes. At the time of writing (early 2019), many aspects of the Well-being Act were still in their early stages of development and implementation. For instance, the Welsh Government published its first tranche of 46 national indicators in March 2016,⁴¹ its initial 14 wellbeing

⁴⁰ See, for instance, Future Generations Commissioner for Wales (2019) *Budget process and preventative spend*. <http://futuregenerations.wales/work/preventative-spend/> For other examples of the impact of the legislation on public bodies, see: J Graham, S Azam, L Woodfine, M Dyakova & M Bellis (2018) *Futures for Wales*. Cardiff: Public Health Wales. <http://happymuseumproject.org/report-welsh-museums-and-the-wellbeing-of-future-generations-act/>; Public Health Wales (2017) Reusing and refurbishing furniture in a new office. *GPP in practice* (77). http://ec.europa.eu/environment/gpp/pdf/news_alert/Issue77_Case_Study_152_Wales.pdf

⁴¹ See Welsh Government (2016) *How to measure a nation's progress? National indicators for Wales*. <https://gov.wales/docs/desh/publications/160316-national-indicators-to-be-laid-before-nafw-en.pdf>

objectives in November 2016 (with a revised list of 12 in September 2017)⁴² and its first *Future trends report* in May 2017.⁴³ It has yet to publish a detailed set of milestones (in relation to the national indicators): a three-month public consultation process on the selection of milestones commenced in early 2019. Meanwhile, thus far most of the 44 public bodies and 19 public service boards covered by the Well-being Act have published only one full set of wellbeing objectives. Equally, the first Future Generations Commissioner, Sophie Howe, has been in office for barely three years (of a seven-year term), and the process by which her Office monitors progress, reports results and evaluates outcomes is still in its early stages.⁴⁴ Accordingly, at the time of writing, any independent assessment of the Welsh legislation and its impact on public policy, governmental priorities, ministerial accountability and the sustainability of the Welsh economy and society must be tentative.

The role of the Future Generations Commissioner for Wales

From an international perspective, the Office of the Future Generations Commissioner and the legislative context within which the Office operates are both unique. No identical – or even broadly equivalent – institution exists elsewhere. Certainly the roles of the Commissioner – in terms of advocating, advising, monitoring, assessing, reviewing and serving as a ‘guardian’ for future generations – overlap with various independent public bodies in other jurisdictions (e.g., the former Knesset Commission for Future Generations, the Hungarian Ombudsman for Future Generations [or Deputy Commissioner for Fundamental Rights], and the Parliamentary Commissioner for the Environment [PCE] in New Zealand). But each case has notable differences. For instance, the PCE is an Officer of Parliament, whereas the Future Generations Commissioner, while independent of the Welsh Government (like three other Welsh commissioners), is not a parliamentary institution. Similarly, while both the PCE and the Future Generations Commissioner have a mandate to protect long-term interests, the PCE’s responsibilities are focused on environmental sustainability and are thus narrower. Common to both institutions, however, is that the respective legislatures are involved in the process of appointing Commissioners, with a cross-party group of parliamentarians interviewing candidates and making a recommendation to their respective governments.

The Office of the Future Generations Commissioner is small. It has a staff of just under two dozen and a budget of approximately £1.4 million. Such financial resources are hardly commensurate with the scope and scale of the Commissioner’s statutory duties. Necessarily, therefore, she has had to prioritise and deploy her limited staff capacity in a manner most likely to further the goals of the legislation. This has contributed to a strong emphasis on partnerships with other organisations, a heavy reliance on secondments, and a focus on providing practical advice to, and training for, public bodies on implementing the provisions of the Well-being Act. As a result, the Commissioner has published various forms of guidance, including advice to the Welsh Government and public bodies on how to scrutinise policy proposals and projects through the lens of sustainable development and a wellbeing framework.

In terms of priorities, the Commissioner has concentrated on highlighting the big issues, challenges and opportunities facing future generations. With assistance from the New Economics Foundation and following extensive public consultations during 2017, she chose six broad issues as the primary areas of focus. Three are concerned with creating the right kind of infrastructure for future generations, namely via improving

⁴² For details, see Welsh Government (2017) *Well-being statement 2017: Prosperity for all: the national strategy*. Cardiff: Welsh Government. <https://beta.gov.wales/sites/default/files/publications/2017-10/prosperity-for-all-the-national-strategy-well-being-statement-2017.pdf>

⁴³ See Welsh Government (2018) *Future trends report 2017*. Cardiff: Welsh Government. <https://gov.wales/docs/statistics/2017/170505-future-trends-report-2017-en.pdf>

⁴⁴ For an initial assessment by the Commissioner, see Future Generations Commissioner for Wales (2018) *Well-being in Wales: The journey so far*. Cardiff: Future Generations Commissioner for Wales. http://futuregenerations.wales/wp-content/uploads/2018/11/FGCW-1-year-Report-_English.pdf; and for her most recent annual report, see Future Generations Commissioner for Wales (2018) *Annual report 2017–2018*. Cardiff: Future Generations Commissioner for Wales. <https://futuregenerations.wales/wp-content/uploads/2018/11/FG-AR-18-Interactive.pdf> For an initial assessment of progress by the Welsh Chief Statistician, see: Welsh Government (2018) *Well-being of Wales 2017–18*. Cardiff: Welsh Government. <https://gov.wales/docs/statistics/2018/180920-well-being-wales-2017-18-en.pdf> See also Auditor General for Wales (2018) *Reflecting on year one: How have public bodies responded to the Well-being of Future Generations (Wales) Act 2015?* Cardiff: Auditor General for Wales. <http://www.assembly.wales/laid%20documents/agr-ld11542/agr-ld11542-e.pdf>

the housing stock, enhancing energy efficiency and renewable generation (i.e., decarbonisation) and contributing to better transport planning. The other three are concerned with equipping people for the future, namely by improving skills, reducing adverse childhood experiences and enhancing physical and mental health.⁴⁵ While working closely with a wide range of public and private sector organisations and seeking to ‘walk the talk’ of sustainable development, the Commissioner has also sought to avoid duplicating the efforts of other public bodies in specific areas of policy.

Since her appointment in early 2016, Commissioner Sophie Howe and her staff have worked closely with ministers and officials on a number of policy initiatives (e.g., amending the budgetary process to reflect the principles and goals of the Well-being Act) and have interacted regularly with the Welsh Assembly, including by providing advice to committees, individual members and Assembly staff (see below). In broad terms, the aim has been to help the policy community understand the requirements and implications of the Well-being Act, embed the principle of sustainable development in core governmental procedures and processes, reframe the nature of policy debate on key long-term issues and serve as a catalyst for change – in relation to both the substance of public policy and the processes of decision-making. The Commissioner has also endeavoured to raise the public profile of her Office and the Well-being Act through an active and strategic programme of public engagements, media interviews, statements and consultations, with extensive use of both digital and print media. Through such efforts, her Office has established itself as a significant contributor to public debate in Wales.

Challenges

Many analytical, practical and political challenges face the Welsh authorities in meeting the Well-being Act’s bold aspirations. The following discussion highlights some of the more significant implementation issues and wider constraints.

First, the wellbeing of current and future generations in Wales will obviously be greatly influenced by decisions, forces and events over which policy-makers in Cardiff or local authorities have little or no control. For example, the Welsh authorities have virtually no capacity to influence the condition of global public goods, such as the Earth’s atmosphere, oceans, biodiversity and cybersecurity: protecting these vital goods requires international cooperation. Of course, Wales can and should endeavour to be a good international citizen and “contribute to global well-being”, as the Well-being Act’s seventh wellbeing goal requires, but its capacity to alter global outcomes is negligible. In addition, given their subnational status and the limited nature of their devolved powers, Welsh decision-makers lack control over many of the critical policy levers that affect the wellbeing of their citizens, notably: monetary and fiscal policy; international relations, trade and security; the level and provision of social assistance; and many areas of economic and social regulation. Hence, for instance, their capacity to alter income and wealth distribution or alleviate poverty within Wales is very modest. Note that the Welsh Government’s annual budget is about £13 billion and Wales, as an integral part of the United Kingdom, has experienced a decade of fiscal austerity.

Second, the scope of the Well-being Act is extremely broad, with implications for virtually every area of public policy and public life. Significantly, the Well-being Act specifically embraces cultural wellbeing, along with economic, social and environmental wellbeing, and is concerned not only with the goals or ends of public policy, but also the means by which these ends are pursued. It thus has deep relevance for both the substance of policy and the process of decision-making. While the broad scope of the legislation is daunting, equally challenging, at least conceptually, is that it embraces two distinct, yet overlapping, policy frameworks, namely, a sustainable development approach and a wellbeing approach. Both approaches, as with all policy frameworks, have strengths and weaknesses, advantages and disadvantages. Both can be applied in different ways depending on how particular concepts are defined, interpreted and prioritised. Combining the two approaches, although understandable, poses a variety of analytical issues. At the same time, it does little to resolve the problems inherent in each approach.

For instance, in the case of sustainable development, debates continue over the meaning, scope and implications of ‘sustainability’, including the respective merits of its various versions (e.g., ‘strong’ versus ‘weak’). Equally, while the ‘sustainable development principle’ embraced by the legislation is widely

⁴⁵ Future Generations Commissioner for Wales, *Annual report 2017–2018*, *ibid*, p 20.

supported internationally, it leaves many fundamental philosophical and practical issues unresolved. What, for instance, are the likely 'needs' of future generations? In an uncertain world, how is it possible to know whether particular decisions today will affect the capacity of future generations to meet their needs? If the needs of current and future generations appear to be in conflict, how should they be balanced? What discount rate should be applied in cost-benefit analyses? What level of risk is morally and socially acceptable, and how should the precautionary principle be applied?

Many questions can also be posed with respect to the wellbeing framework embraced within the Well-being Act. For instance, how does this framework compare to other well-established frameworks, such as the Organisation for Economic Co-operation and Development's Better Life Index? What is missing and does this matter? What weight, if any, should be given to 'subjective' and 'relational' wellbeing in policy-making, neither of which is mentioned in the Well-being Act? In other words, should only 'objective' measures of wellbeing count in the policy process? Similarly, what guidance, if any, does the Well-being Act provide with respect to the components and determinants of wellbeing? What implications does it have for intragenerational and intergenerational wellbeing, and how should it be used in setting priorities? Which types of wellbeing matter most, which distributions of wellbeing are best, and what are the most effective ways of enhancing economic, social, environmental and cultural wellbeing? There are no simple answers to any of these (or other related) questions.

Third, given such issues, it is perhaps no surprise that the Welsh Government and the various public bodies and public service boards with duties under the Well-being Act are still grappling with how best to formulate their wellbeing objectives and determine appropriate milestones. Thus far, the 44 national and local public bodies covered by the Well-being Act have announced a total of 345 objectives, while the public service boards have set an even greater number. An initial analysis by the Future Generations Commissioner, who is required by the Well-being Act to monitor and assess the extent to which such objectives are being met, points to a variety of problems.⁴⁶ For instance, many of the objectives appear to simply reframe or repackage existing agency goals; most of the objectives are focused on economic and social wellbeing while attention to environmental and cultural wellbeing is limited; and few public bodies seem to have considered how they might contribute most effectively to the seven legislated wellbeing goals. The 345 objectives also vary greatly in their specificity and timeframes, as well as in how easy it is to monitor their achievement. For the Commissioner and her staff, assessing the objectives is further complicated because they are not only numerous but also being constantly changed and updated. Such issues are perhaps inevitable in the early stages of the Well-being Act's implementation. At the same time, the international literature on setting agency goals, objectives, targets and milestones suggests that some of these problems may be difficult to resolve.

With respect to the framework for monitoring and assessing the performance of governmental entities, two specific issues are worth noting. Under the Well-being Act, both the Commissioner and the Auditor General for Wales have statutory responsibilities. The Commissioner is charged, under sections 18 and 19, with monitoring and assessing the extent to which public bodies set and meet their wellbeing objectives, and reviewing whether they are doing so in a manner consistent with the sustainable development principle. Meanwhile, section 15(1) requires the Auditor General to examine the extent to which public bodies are acting in accordance with the sustainable development principle in setting their wellbeing objectives and taking steps to achieve them. Plainly, the roles of the Commissioner and Auditor General overlap. As a result, the two statutory officers have sought to work closely together, in line with the Well-being Act's emphasis on integration, involvement and collaboration, in developing "parallel and complementary strategies to discharge their functions".⁴⁷

A rather more serious challenge lies in the limited enforcement powers within the Well-being Act. Under the legislation (see ss 20–22), the Commissioner can advise, recommend and undertake reviews, but cannot compel ministers or public bodies to behave in particular ways. In effect, the Commissioner's main power lies in the capacity to 'name and shame'. For instance, the Well-being Act provides for the Commissioner to "conduct a review into the extent to which a public body is safeguarding the ability of future generations to

⁴⁶ Future Generations Commissioner for Wales, *Annual report 2017–2018*, *ibid*, pp 44–51.

⁴⁷ Future Generations Commissioner for Wales, *Annual report 2017–2018*, *ibid*, p 46.

meet their needs by taking account of the long term impact of things the body does” (s 20(1)), and enables the Commissioner to advise or assist ministers, including making recommendations to them “about the well-being goals or the national indicators” (s 21(1)). In response, public bodies “must take all reasonable steps” to follow the Commissioner’s recommendations, unless they are “satisfied that there is good reason” not to do so or if they decide “on an alternative course of action in respect of the subject matter of the recommendation” (s 22(1)). They must also “take into account” any guidance provided by ministers in determining how they respond (s 22(3)). Significantly, too, the Well-being Act requires public bodies to publish their response to the Commissioner’s recommendations and to provide reasons if they do not follow them. Thus far, the Commissioner has not reviewed the actions of a public body, so it remains to be seen how influential the power to review will be in practice. Moreover, for reputational and other reasons, most public bodies will no doubt seek to avoid placing themselves in a situation where they may be the subject of such scrutiny. In short, the mere threat of being reviewed is likely to encourage those in positions of responsibility to take a cooperative approach. But, in the end, public bodies are not obliged to follow what the Commissioner proposes.

The Welsh Assembly and the Well-being of Future Generations (Wales) Act

As indicated above, the Well-being Act places new obligations on Welsh ministers and public bodies. Against this, it imposes no additional obligations on the Welsh Assembly. Nevertheless, the Assembly is a critical institution in ensuring that the Well-being Act is taken seriously by policy makers and delivers results. When reports are tabled in the Assembly as required under the Well-being Act, it is then up to the Assembly and its various committees to scrutinise these reports, deliberate about their findings and implications, and make recommendations to the government. In so doing, the Assembly is limited by its size: 60 members comprise only a limited pool of people to serve on committees and undertake detailed scrutiny and independent reviews. Equally, to the extent that the government has a secure majority in the Assembly, political constraints on how effectively the government can be challenged are inevitable. For such reasons, it would be unrealistic to expect such legislation to have a substantial effect on the vigour with which the Assembly assesses or critiques the quality of the government’s performance, including its effectiveness in exercising its stewardship responsibilities and protecting long-term interests.

Nonetheless, evidence indicates that Assembly members have been asking more questions of ministers in relation to the Well-being Act and its implementation, including the work of the Commissioner. Assembly committees, too, have been drawing on the Well-being Act, including the reports and evidence that it has generated, in scrutinising the performance of the government. For instance, some committees have made recommendations in their reports in relation to the government’s budget or accounts to incorporate the wellbeing objectives more fully and assess progress towards meeting them. Thus far, the government has accepted such recommendations.⁴⁸ Similarly, some committees have referred to the Well-being Act in relation to various policy matters, such as the government’s draft maritime plan.⁴⁹ Further, as might be expected, a number of committees (e.g., the Climate Change, Environment and Rural Affairs Committee and the Equality, Local Government and Communities Committee) have sought the Commissioner’s advice. Indeed, she regularly provides evidence for committees – on government bills, policy reviews and the scrutiny of public bodies. What is more difficult to determine, however, is the extent to which such advice is influencing the views of Assembly members and their subsequent decisions. It is also hard to ascertain what impact the Well-being Act has had (and in what particular areas) on the government’s legislative agenda, policy priorities and budgetary allocations. Hopefully, answers to such questions will become clearer over the coming years.

⁴⁸ Climate Change, Environment and Rural Affairs Committee (2017) *Scrutiny of the Welsh Government draft budget 2018–19*. <http://www.assembly.wales/laid%20documents/cr-ld11296/cr-ld11296-e.pdf>; Welsh Government (2018) *Written response by the Welsh Government to the report of the Climate Change Environment & Rural Affairs committee: Cabinet Secretary for Economy and Transport – general and budget scrutiny*. <http://www.assembly.wales/laid%20documents/gen-ld11519/gen-ld11519-e.pdf>; Public Accounts Committee (2018) *Scrutiny of accounts 2016–17*. <http://www.assembly.wales/laid%20documents/cr-ld11411/cr-ld11411-e.pdf>; also see Welsh Government (2018) *Public Accounts Committee: Scrutiny of accounts 2016–2017 report*. Cardiff: National Assembly for Wales Commission. <http://senedd.assembly.wales/documents/s74089/PAC5-10-18%20P8%20-%20WG.pdf>

⁴⁹ Climate Change, Environment and Rural Affairs Committee (2018) *Feedback on the Welsh Government’s draft Welsh National Marine Plan*. <http://www.assembly.wales/laid%20documents/cr-ld11543/cr-ld11543-e.pdf>

Implications for New Zealand

As noted earlier in this report, New Zealand has no legislative framework that imposes a comprehensive and systematic duty on governments and public bodies to pursue sustainable development or protect the interests of future generations. In short, it has nothing comparable to the Well-being Act. Against this, as discussed in chapter 3, multiple policy instruments (or commitment devices) seek to protect long-term interests in various ways, and the current Labour–New Zealand First Government is in the process of implementing additional measures (e.g., via amendments to legislation on public management, climate change and social policy). It is not possible here to evaluate in detail whether New Zealand should implement a legislative framework similar to that in Wales, but several brief observations are worth noting.

First, any initiative to create a new Office in New Zealand in the form of a Future Generations Commissioner (possibly as an Officer of Parliament) would have significant implications for the PCE. Without doubt, the two institutions would have overlapping responsibilities, with the potential for much duplication of effort and possible confusion. Accordingly, it would be necessary to either expand the current mandate of the PCE to embrace some or all of the roles of the Welsh Commissioner or narrow the focus of the PCE to create ‘space’ for a new institution. Both options are likely to have advantages and disadvantages.

Second, a core objective of the Welsh legislative framework is to embed the ‘principle of sustainable development’ in all levels of governmental decision-making, thereby enhancing the weight accorded to long-term interests in the policy process. Plainly, various ways of working towards such an objective are possible. But it is also evident that the task is challenging – analytically and politically. In the New Zealand context, the Resource Management Act 1991 has embraced the principle of ‘sustainable management’ for almost three decades, but over these years the quality of the natural environment has declined (in many regions using multiple measures).

Third, the Welsh legislation has undoubtedly enhanced the information, evidence and advice available to the Assembly on a range of issues and strengthened its capacity to scrutinise the performance of the government, not least its performance in protecting the long-term interests of Welsh citizens. But, as this section has highlighted, the ability of, and incentives for, the Assembly to take advantage of the new legislative framework are limited by inherent political and resourcing constraints (including the small number of Assembly members). Neither of these constraints is easy to address. The same situation would apply in New Zealand if a Well-being of Future Generations Act were to be enacted.

The provision of analytical, research and advisory services for legislatures

Legislatures depend on a wide range of support services to undertake their functions, including scrutiny of the executive. Some of these services involve providing evidence, analysis and advice, summarising submissions and drafting reports. Support of this nature is provided through many different kinds of institutions: parliamentary libraries, research units, dedicated select committee staff, supreme audit bodies, Officers of Parliament (or their equivalents) and other independent bodies that support the legislature as one of their functions (e.g., research academies). The nature, quality and quantity of these parliamentary support services vary across parliamentary systems and are dependent on, among other things, the available funding, statutory provisions and the political culture, norms and expectations.

This brief discussion of support services concentrates on the Parliamentary Office of Science and Technology (POST) in the United Kingdom. This Office plays an important role in parliamentary scrutiny of long-term governance by providing advice on, and analysis of, research in relation to science and technology. Bear in mind that scientific evidence is vital to any serious analysis of major long-term policy issues, while assessing the possible impact of new and emerging technologies is essential for sound anticipatory governance.

United Kingdom parliamentary support services

The United Kingdom Parliament draws on a multiplicity of support services. Both the House of Commons and the House of Lords have their own Committee Office, which provides its respective select committees with secretariat, administrative, research and advice services.⁵⁰ Thus, each committee has generalist clerks, specialists and support staff. Additionally, committees can draw on external specialist advisors for ad hoc advice. Within the Committee Office of the House of Commons is a Scrutiny Unit, which provides all Commons committees with expert advice and assistance, particularly in relation to financial scrutiny and the examination of draft legislation.⁵¹ Further support comes from the Commons Library and the Lords Library. Both are independent research and information units that produce impartial research briefings on major pieces of legislation and other areas of policy.⁵² POST is another source of analytical and research help for parliamentarians, as discussed below. Finally, the Comptroller and Auditor General is an officer of the House of Commons and is the head of the National Audit Office, which scrutinises public spending on behalf of Parliament.⁵³

Parliamentary Office of Science and Technology

The Parliamentary Office of Science and Technology is a multifunctional service for members of both Houses.⁵⁴ The organisation was originally established in 1989 as a charitable foundation, in response to demand from members of both Houses for non-partisan information on and analysis of science and technology issues. After consistently demonstrating its value, it became a permanent parliamentary institution in 2001. Overseen by a Board of Peers, MPs and external experts, the office is staffed by a Head, nine scientific advisors and four administrative support staff. It also runs a Fellowship Programme, funded by organisations such as research councils and learned societies, which brings around 25 PhD students and postdoctoral academics into Parliament to work each year. Fellowships usually last three months, with a fellow normally producing a POSTnote (see below) or otherwise working for a select committee or in one of the libraries.

POST performs a number of key functions. First and foremost, it provides non-partisan advisory and analytical services to parliamentarians on research relating to public policy issues of a scientific nature. A vast array of research topics is covered, spanning the health and biological sciences, physical sciences and ICT, engineering, energy and the environment, and the social sciences. Many of the topics addressed are of a long-term or, indeed, enduring nature. Hence, POST plays an important role in increasing the understanding of MPs and Peers on long-term matters and contributes to more effective parliamentary scrutiny of long-term governance.

POST's advice takes several forms: oral briefings to select committees on research evidence related to specific inquiries; assessments of evidence presented to a committee; and briefings (called POSTbriefs) specifically requested by a select committee or library research staff. In addition to advice, POST provides analytical services in the form of research summaries or literature reviews (generally in the form of POSTnotes). These are deliberately contextualised for use by parliamentarians. Aside from this, POST helps connect parliamentarians to specific experts within the scientific community through hosting events and identifying people who might be able to assist select committees and library research staff with particular

⁵⁰ See <https://www.parliament.uk/mps-lords-and-offices/offices/commons/teams/> and <https://www.parliament.uk/business/lords/house-lords-administration/lords-departments/#jump-link-2>

⁵¹ House of Commons (2017) *Financial scrutiny uncovered: A guide for Members by the Committee Office Scrutiny Unit* (3rd ed). House of Commons. <https://www.parliament.uk/documents/Scrutiny-Unit/Financial-Scrutiny-Uncovered-booklet-2017-edition-3.pdf>

⁵² See the webpages of both libraries: <https://www.parliament.uk/commons-library> and <https://www.parliament.uk/business/lords/work-of-the-house-of-lords/lords-library/>

⁵³ National Audit Office (nd) *About us*. <https://www.nao.org.uk/about-us/>

⁵⁴ Navigate through the POST webpages for information on functions, publications, staffing and so on: <https://www.parliament.uk/mps-lords-and-offices/offices/bicameral/post/>; see also Parliamentary and Scientific Committee (nd) *Guide to science in Parliament*. <https://www.scienceinparliament.org.uk/publications/guide-to-science-in-parliament-and-government/>; M Clark & M Norton (2008) 20 years of the parliamentary office of science and technology (POST): Part 1: the first 10 years. *Science in Parliament* 65(3): 14–16; C Kenny, C Washbourne, C Tyler & JJ Blackstock (2017) Legislative science advice in Europe: The case for international comparative research. *Palgrave Communications*; Kumar, A & Cope, D (2008) 20 years of the parliamentary office of science and technology (POST). *Science in Parliament* 65(4): 20–21.

projects. POST also contributes to the professional development of parliamentary staff, and works with members who are keen to develop their research skills.

The Board of POST comprises MPs and Peers, together with several distinguished external experts from science, engineering and medical disciplines. As well as determining POST's policy and priorities, the Board helps POST to maintain good relationships with parliamentarians, select committees, library staff and outside organisations.

POST has two main types of publications: POSTnotes and POSTbriefs. The former are more common and well recognised. A POSTnote consists of a four-page, tightly packed, impartial summary of a research topic, framed in a public policy context. Close to 30 POSTnotes are produced annually.⁵⁵ The POSTbrief is a longer document, taking the form of a mini-literature review of a subject requested by a select committee or library research staff. Between 2015 and 2018, around four POSTbriefs were produced each year. All of POST's publications are subject to a rigorous peer-review process involving numerous external experts to ensure they are of the highest possible accuracy, reliability and overall quality.

POST has a strong focus on foresight, with horizon scanning as a core function and an integral feature of its investigations and publications. A key aim is to anticipate emerging issues, assess their possible impact and consider the implications for legislators. This includes considering the possible ramifications of technological innovations and important scientific discoveries. Many POSTnotes tackle policy issues that have long-term implications, whether domestic or global. For example, in 2018 POSTnotes included topics such as: 'Robotics in Social Care', 'Trends in Agriculture', 'Antimicrobial Resistance and Immunisation' and 'The Ageing Process and Health'. During the previous year, publications included: 'Decarbonising the Gas Network', 'Environmentally Sustainable Agriculture', 'Rising Sea Levels', 'Future Energy Efficiency Policy' and 'Greenhouse Gas Removal'. Many other POSTnotes also mentioned future trends. Similarly, many POSTbriefs focus on emerging issues or technologies with major implications (e.g., 'Carbon Capture and Usage' and 'Distributed Ledger Technology').

POST's operations and effectiveness have been the subject of several reviews.⁵⁶ Thus far, the assessments have been positive. The findings indicate that: POST's publications are well regarded; the majority of parliamentarians and their staff are aware of its role and activities; its advice and analyses are taken seriously; and it is providing a good conduit to the wider research community. Against this, concerns are that the material it produces is not always available at the time parliamentarians most need it. Arguably, this is a relatively common feature of research-oriented advisory units.

Significantly, New Zealand has nothing equivalent to POST. Equally, whereas the Prime Minister has a Chief Science Advisor and many departments have science advisors, there is no comparable role in our Parliament. This matter is discussed further in chapter 9.

Lessons for New Zealand

This chapter has outlined some of the diverse ways in which legislatures in parliamentary democracies endeavour to hold their governments to account for the quality of their long-term governance. More broadly, it has considered a number of mechanisms that have been instituted to enhance the role of legislatures in conducting foresight, assessing major long-term policy problems, evaluating governmental planning and risk management, and protecting the interests of future generations. Standing back from the particulars, a number of lessons are evident.

First, based on our survey results and other available information, it appears that many parliaments, especially those in smaller democracies and at the subnational level, undertake relatively little systematic scrutiny of an explicitly long-term or forward-looking nature (e.g., assessing how well governments are preparing for the future or mitigating and managing risks). No doubt in some cases this reflects

⁵⁵ This is the average number per year over the past 10 years.

⁵⁶ See C Kenny, DC Rose, A Hobbs, C Tyler & J Blackstock (2017) *The role of research in the UK Parliament* (vol 1). London: Houses of Parliament; C Kenny (2018) *POST research study: The work and impact of POST*. London: Houses of Parliament. https://www.parliament.uk/documents/post/POST_Research_Study_The_work_and_impact_of_POST_Sept_2018.pdf.

a lack of time and resources, including the limited availability (or funding) of independent experts to assist parliamentarians to undertake such activities. Equally, however, assessing the quality of long-term governance, including such topics as infrastructure investment, workforce planning, foresight, risk management, resilience and sustainable development, poses analytical challenges, while the political rewards for undertaking such activities are typically low (see chapter 3).

Second, there is no obvious best model for ensuring high-quality legislative oversight, including scrutiny of long-term governance. Certainly there is no 'silver bullet'. However, if forward looking legislative scrutiny is to be undertaken well (e.g., in a proactive, systematic and rigorous manner), a comprehensive approach with multiple mechanisms (including specific institutions and procedural triggers) is almost certainly necessary. Such matters cannot be left to a single, specialist committee or a designated parliamentary officer, such as a Future Generations Commissioner.

Third, efforts to improve forward-looking scrutiny need to take proper account of the distinctive features of each parliamentary jurisdiction (e.g., whether parliament is bicameral or unicameral, and the size of the legislature). Approaches that may be effective, or at least durable, in one jurisdiction may be less effective in others. Equally, to be durable, cross-party support is essential.

Fourth, in designing any system of forward-looking parliamentary scrutiny, it is vital to consider the nature of the formal obligations that governments have in relation to such matters as foresight, planning, risk assessment, long-term fiscal projections and infrastructure investment, and to tailor the arrangements for parliamentary oversight accordingly. Ideally, the two spheres of activity – executive and legislative – should go hand in hand and the various commitment devices to encourage sound long-term governance (see chapter 3) should be planned concurrently. In Finland, as highlighted in this chapter, the requirement for the government to produce regular *Reports on the Future* provided a convenient hook – and hence justification – for forming the Committee for the Future. Without this hook, the creation and durability of the Committee would have been less certain.

Finally, it is vital for parliamentarians to have access to the resources and expertise necessary for rigorous, independent and systematic scrutiny. This is likely to be all the more important in smaller parliaments, where fewer legislators are available to undertake such activities.

Chapter 7: Framing the way forward: Options for reform

Introduction

This report's primary purpose is to consider ways to enhance parliamentary scrutiny of the quality of long-term governance and stewardship in New Zealand. The preceding chapters have explored various issues of relevance to this topic including:

1. the reasons why contemporary democracies often display a presentist bias in their policy-making processes, and the risks this poses to citizens' long-term interests and the wellbeing of future generations
2. the criteria available for assessing the quality of long-term governance, drawing in particular on the concept of anticipatory governance
3. the commitment devices (both substantive and procedural) and other mechanisms that have been instituted in recent years, or are currently under active consideration, to strengthen the quality of long-term governance in New Zealand
4. the nature of accountability and scrutiny in New Zealand, including the multiple layers of scrutiny and how these operate
5. the strengths and weaknesses of the current forms of parliamentary scrutiny in New Zealand, particularly in relation to long-term governance
6. the lessons for New Zealand from the efforts of other democracies to improve their long-term governance and enhance the scrutiny activities of their respective legislatures.

Before exploring the different options for reform, the first part of this chapter summarises the perspectives, assessments and suggestions of those interviewed for this project. It then considers the context for parliamentary reform, including the constitutional, institutional and political considerations that must inform any realistic reform agenda, and reiterates the criteria for assessing a new model of parliamentary scrutiny of long-term governance, as enunciated in chapter 5. The final part of the chapter outlines a series of possible reforms. These cover changes to the Standing Orders designed to enhance parliamentary scrutiny of long-term governance, improvements to the range and quality of advice available to members of Parliament (MPs), and wider policy and constitutional reforms aimed at boosting the quality of long-term governance. The ideas briefly canvassed in table 7.1 are then explored in further detail in chapters 8, 9 and 10. Finally, chapter 11 draws the threads together and offers broad conclusions.

Perspectives of interviewees

As noted in chapter 2, a significant number of interviews were conducted to help inform the preparation of this report and the proposals for reform. This included discussions with current and former MPs from across the political spectrum, government officials, staff within the various institutions of the legislative branch, and academic researchers. Interviews were also conducted with many people involved in the policy process in London and Cardiff. The following section summarises the main themes and suggestions that emerged from these discussions. The views of specific individuals are not identified because the interviews were conducted on a confidential basis.

Brief summary

As outlined in chapter 2, the interviews conducted for this project, both in New Zealand and the United Kingdom, covered a wide range of issues related to parliamentary scrutiny, the challenges of long-term governance and possible reforms. At least five main messages emerged from the interviewees in New Zealand. First, there was broad consensus that important aspects of the current scrutiny arrangements are inadequate. Views often differed, however, about the nature and causes of the problem, and the extent to which improvements are possible. Second, there was little dissent from the proposition that parliamentary scrutiny of long-term matters is limited and generally deficient. Third, while there was broad support for reform, there was no consensus on the best way forward. Many different proposals were advanced. While some focused on changes to parliamentary structures, processes and procedures, others concentrated on improving the quality and quantity of independent advice available to Parliament; yet others involved changes to public policy, public management and constitutional law. Fourth, among those who expressed a view, the general preference was for gradual, evolutionary change. Finally, a common perception was held among interviewees that significant reform would be difficult to achieve, at least in the near term. Hence, there is a need for realism about what might be possible.

Quality of parliamentary scrutiny

Interviewees generally acknowledged that the institutional layer of scrutiny in New Zealand (as discussed in chapter 5) is relatively sound and effective, though with scope for improvement. Nevertheless, many argued that the current system of parliamentary scrutiny – and specifically the operation of the *political* layer – is unsatisfactory in several important respects. Commonly used terms to describe the existing system were ‘weak’, ‘inadequate’, ‘cursory’, ‘patchy’ and ‘unduly partisan’. Overall, the scrutiny process was regarded as being too ad hoc, reactive and backward-looking, and insufficiently systematic, proactive, anticipatory and outcome focused. These concerns are broadly consistent with the evidence presented in chapter 5. Notably, many interviewees argued that New Zealand’s model of parliamentary scrutiny compares unfavourably with those in other advanced democracies. The scrutiny of legislation was regarded as a notable exception.

The evidence provided by interviewees to justify their assessments included:

- the relatively limited number of in-depth inquiries conducted by select committees, especially into issues with major long-term or intergenerational implications
- the failure of select committees to make full use of their investigative powers
- the nature of the many questions asked by MPs during the examination of the Estimates and the conduct of annual reviews of public agencies
- the relative brevity of the time allocated for annual reviews, even for major public agencies
- the often perfunctory nature of the Government’s response to select committee recommendations
- the absence of any systematic process for monitoring the implementation of select committee recommendations or reporting on progress.

Significantly, the annual reviews of public agencies attracted many negative comments. One interviewee, for instance, described the current process as “irredeemably broken”; another said it was “insufficiently strategic”; others referred to it as “superficial” or “once over lightly”. While most current and former MPs expressed general satisfaction with the assistance and advice provided by the staff of the Office of the Auditor-General (OAG), they had concerns that the existing review process focuses too much on inputs and outputs rather than outcomes or results. It was also argued that excessive attention is given to often minor issues of financial performance and “good accounting practice”. Correspondingly, too little attention is paid to important policy issues (e.g., the funding of infrastructure), overall effectiveness and value for money. Concerns were also raised as to whether some of the advice provided by the OAG is unduly “narrow” or excessively “technical”.

Interviewees offered many explanations for the “cursory” nature of parliamentary scrutiny. Particular attention was given to *political incentives*. It was repeatedly observed that the incentives driving MPs do not encourage in-depth scrutiny of governmental performance. Backbench government MPs and those in support parties are under strong pressure to avoid anything that might embarrass ministers or expose the Government to criticism. They can be loath to agree to hold inquiries on matters that could highlight

poor performance on the part of ministers or public agencies. Equally, they may be reluctant to agree to recommendations that do not accord with government policy. Opposition MPs, meanwhile, have powerful incentives to focus on matters that will attract immediate media attention. Rigorous inquiry typically goes unrewarded. Moreover, it was noted that MPs in Opposition parties often see their primary role as being to undermine and eventually overthrow the Government, rather than improve the quality of governance. Understandably, therefore, various interviewees made the point that, if parliamentary scrutiny, including the scrutiny of long-term governance, is to be enhanced, thought must be given to altering political incentives. It would not be enough, for instance, simply to provide MPs with more or better information on governmental performance: merely increasing the 'supply' of information would not induce 'demand' (i.e., more active use of the information for scrutiny purposes).

Many other factors were noted as contributing to the unsatisfactory quality of parliamentary scrutiny. Most have been mentioned in previous chapters. They fall into four main categories: matters of a constitutional nature; the structure and management of the select committee system; the resourcing of Parliament's scrutiny functions; and the nature of the current public management system.

1. *Constitutional matters* – interviewees mentioned the following factors that affect parliamentary scrutiny:
 - the relatively small size of the House of Representatives (the House): this restricts the number of government backbench MPs who are available to serve on select committees and tends to strengthen caucus discipline, thus limiting the independence of backbench MPs
 - the absence of an upper house elected on a different basis from the House of Representatives: this reduces the political scope and incentives for in-depth inquiries on controversial policy issues
 - the short parliamentary term, which contributes to frequent elections and a significant turnover of MPs (see also chapter 5), which in turn impacts negatively on the extent and depth of parliamentary experience and expertise.
2. *The select committee system* – interviewees mentioned the following factors that affect parliamentary scrutiny:
 - the multi-purpose nature of the 12 subject select committees and the tendency for most committees to devote much of their time to examining legislation leaving only limited time for scrutinising the performance of the executive
 - the absence of at least one committee dedicated to the task of scrutinising the executive or conducting in-depth inquiries
 - the variable quality of committee chairing, not helped by limited training for such roles
 - the tendency for a disproportionate number of committee chairpersons to belong to a party that is either part of the Government or a support party (i.e., the allocation of chairing roles is not based on the relative strength of the parliamentary parties)
 - the fact that most committees generally meet only once a week (normally for about three hours), and usually only during the weeks when the House is sitting, which limits the time available for detailed scrutiny activities
 - the frequent use of substitute committee members, especially when this is designed to cover general absences rather than to accommodate the particular interests or expertise of members: substitutes for absentee members typically have less knowledge of the issues under consideration than regular committee members, and a significant reliance on substitutes tends to reduce continuity
 - the fact that committees have considerable discretion over the nature of the scrutiny activities they undertake and the priority they give to particular investigations.
3. *The resourcing of parliamentary scrutiny* – interviewees mentioned the following factors that affect the quality of parliamentary scrutiny:
 - the modest nature of the overall support and advisory services for MPs and select committees (including research, data analysis and so on)
 - the relatively infrequent secondment of OAG staff to help select committees with inquiries, notwithstanding a code of practice that provides for such arrangements¹

¹ See Officers of Parliament Committee, *Review of the code of practice for the provision of assistance by the Auditor-General to the House, select committees, and members of Parliament* (17 June 2016) AJHR I.15C, at 6–7.

- the relatively limited use of non-governmental experts by select committees (except by the Finance and Expenditure Committee) and their heavy reliance on staff in public agencies (especially departmental officials)²
 - the lack of a Chief Parliamentary Science Advisor (i.e., someone equivalent to the chief science advisors serving many departments).
4. *The public management system* – interviewees mentioned the following factors that affect the quality of parliamentary scrutiny:
- the limited information available on aspects of governmental performance (e.g., reporting on progress in relation to major strategies, objectives, goals and targets)
 - the relative absence of provisions in legislation that require periodic reviews or independent evaluations of policy and regulatory frameworks
 - the fact that central government is not obliged, unlike local government, to undertake long-term planning (e.g., in relation to infrastructure)³
 - the limited information generated by government departments on how they are fulfilling their statutory stewardship responsibilities.

Several interviewees also noted that parliamentarians in New Zealand are likely to be more dependent for advice on officials of the executive branch (e.g., departmental staff) than their counterparts in other democracies (e.g., Australia, Canada and the United Kingdom) because of the relative dearth of independent think tanks and the modest size of the research community.

Parliamentary scrutiny of long-term matters

The previous observations relate to the overall system and quality of parliamentary scrutiny. Many interviewees also commented specifically on the strengths and weaknesses of parliamentary scrutiny of long-term matters, including the quality of long-term governance.

More positively, several interviewees noted that some subject committees have actively pursued forward-looking investigations (e.g., in relation to workplace planning in certain sectors and the management of, and future need for, health infrastructure) (see also chapter 5). Against this, however, there was a general recognition that the attention given to long-term or intergenerational matters by select committees and the House (e.g., in general debates) is limited and patchy. Interviewees noted that select committees spend little time on issues of foresight, long-term plans and strategies, the mitigation and management of long-term risks and natural hazards, emerging or looming policy problems, technology assessment, or issues of resilience and sustainability. Several interviewees lamented the limited time devoted to scrutiny of the long-term fiscal statements and investment statements that the Treasury is required to produce periodically (see also chapter 5). It was also noted that select committees have not been active in scrutinising the impact of the stewardship provisions (introduced via the State Sector Amendment Act in 2013) on departmental operations and performance, even though these provisions have been operative for almost six years.

Other specific observations made by interviewees included the following: the absence of a select committee dedicated to examining long-term issues comparable to the Finnish Committee for the Future; the absence of a Public Accounts Committee, as in the United Kingdom, which undertakes major inquiries; and the lack of procedural triggers or other mechanisms in the Standing Orders prompting select committees to conduct particular kinds of forward-looking scrutiny or foresight exercises.

² One MP noted that, over the course of three parliamentary terms, only one independent advisor had been employed by a committee to help with an inquiry during this MP's membership of the committees in question.

³ For an analysis by the OAG of the long-term plans, including infrastructure strategies, produced by local government, see: <https://www.oag.govt.nz/2015/ltps/part4.htm>

Suggestions for reform

Interviewees advanced numerous proposals for reform – some major, others very minor. Most suggestions concerned the overall system of parliamentary scrutiny, rather than the specific issue of scrutiny of long-term matters. In practice, of course, the two issues are closely connected. A more robust overall system of scrutiny is likely to contribute to enhanced scrutiny of long-term governance.

There was no consensus on which particular reforms were likely to make the greatest improvement and a similar lack of agreement about the political feasibility of the various options for reform. Overall, however, an iterative or evolutionary process was favoured.

The main ideas for reform are summarised below. Additional commentary on specific points is provided in subsequent chapters.

1. *Constitutional reform*

- Most, but not all, of the interviewees who commented on the size of the House favoured having more MPs.
- Almost universal support was given for a longer parliamentary term, with some support for a fixed term or semi-fixed term.
- While no interviewees explicitly advocated the re-establishment of an upper house, several thought Parliament should make greater use of former MPs in various kinds of advisory roles.

2. *Enhancing the select committee system*

- Views were mixed about how the structure of select committees might be reformed, with some interviewees favouring the establishment of one or more committees to undertake major inquiries, including those with a strong intergenerational focus.
- Views were mixed about the idea of establishing a Committee for the Future. While most of those who commented on this proposal favoured such a move, many interviewees also expressed reservations.
- Views were mixed about reducing the size of select committees to enable the establishment of additional committees, but most of those who commented on the matter favoured somewhat smaller committees (e.g., 7–9 rather than 8–13 members).
- Many suggestions were made for reforming the current processes for examining the Estimates and conducting annual reviews of public agencies, including:
 - a greater role for the OAG
 - a medium-term approach to annual reviews, with major departments and agencies being subject to a much more intensive review every three years
 - a greater focus on sectoral or cross-agency reviews
 - the creation of registers of important policy issues or specific concerns relating to individual departments and agencies, with each register being updated annually
 - a much stronger focus on outcomes and forward-looking matters (e.g., plans and strategies)
 - enabling departments and ministers to comment on the draft findings of committees before reports were completed.
- At the same time, views were mixed about whether subject select committees should continue examining the Estimates and conducting annual reviews or whether such activities should be the sole responsibility of a dedicated Public Accounts Committee, Public Accountability Committee or some such entity.
- Views were also mixed about how to improve the functioning of select committees in the interests of better scrutiny, with many different ideas being canvassed (e.g., regarding the selection and training of chairpersons, the prioritisation of business, multi-year planning of work programmes, the frequency and duration of meetings – such as more regular meetings during weeks when the House is not sitting and so on).
- Views were mixed about the best way to amend the Standing Orders to encourage a stronger long-term focus by select committees and the House.

3. *Improving the resourcing of parliamentary scrutiny*

- Support was widespread for increasing the overall resources available for MPs and select committees (including research, data analysis, policy advice and so on), but some differences of view were evident about what changes might be best.
- Different views were advanced about the role and governance of the proposed independent fiscal institution and the extent to which such an entity might help Parliament with its scrutiny activities, especially in the area of fiscal policy.
- General support was given for select committees to make greater use of the resources of the OAG and for the OAG to expand the range of information provided on the performance of public agencies (e.g., more outcome information, more tracking of performance over time, more sector-wide information and so on).
- Some support was given for the appointment of a Chief Parliamentary Science Advisor to help select committees with their inquiries and to serve as a conduit to the research community for the acquisition of independent scientific advice.
- The suggestion was made that select committees should have increased access to legal advice that is independent of the executive.

4. *Enhancing the public management system*

- Some interviewees believed the development of a 'wellbeing budget' and the wider application of the Treasury's *Living Standards Framework* would enhance the overall range and quality of information about governmental performance. At the same time, it was noted that Parliament would need to be active in drawing on this information for scrutiny purposes.
- Many interviewees commented on the current reviews of the State Sector Act 1988 and Public Finance Act 1989 and hoped these would contribute to a more robust system of public accountability, including in relation to long-term matters. Specific suggestions included:
 - amending the Public Finance Act to require the OAG to comment on the Treasury's long-term fiscal statement and investment statement
 - amending the Public Finance Act to require the OAG to prepare a periodic 'stewardship report' drawing on its investigations and audits across central and local government
 - encouraging the OAG to provide more 'best practice' advice.

5. *Other suggested reforms*

- Many other ideas for reform with respect to the scrutiny of long-term matters were advanced by interviewees, including:
 - amending the system of oral questions in the House. This could include introducing a weekly Prime Minister's question time when the House is sitting (as in the House of Commons in the United Kingdom) and a dedicated hour for questions about long term or intergenerational matters, perhaps every third Thursday when the House is sitting
 - expanding the financial and administrative support available for cross-party parliamentary groups (e.g., enabling parliamentary staff to book rooms, organise meetings, undertake research, maintain a register of all such groups and so on)
 - establishing a cadre of MPs who would be dedicated chairpersons of select committees, perhaps appointed through a specific process and seen as having a different standing from other MPs
 - establishing a Cross-Party Parliamentary Group on Future Generations
 - establishing a Scottish-type Futures Forum bringing together MPs, community leaders, business leaders and researchers (see chapter 6)
 - instituting an annual House debate on major long-term or intergenerational matters.

In summary, most interviewees expressed concern about the current model of parliamentary scrutiny. It was widely recognised that many factors – constitutional, institutional, political and behavioural – constrain the capacity, incentives and opportunities for rigorous scrutiny. With respect to scrutiny of long-term governance, there was broad agreement about the need for improvement, but no consensus on how

this could best be achieved. Many interviewees thought that better parliamentary scrutiny of long-term matters was not possible without changes to the overall system of scrutiny (i.e., including the institutional layer) (see chapter 5). Equally, however, there was general recognition that shifting the *temporal* focus of parliamentarians towards the longer-term poses significant challenges: any such shift was likely to require a range of new commitment devices, such as procedural triggers.

As noted, interviewees differed on what particular reforms – or package of reforms – would be best and on their prospects of success. Some focused on enhancing the institutional layer, including the advisory resources available for parliamentarians; others concentrated on the structure and operation of select committees; yet others pointed to the need for more thoroughgoing policy, institutional and constitutional reforms.

Developing an agenda for reform – important considerations

It is now time to draw together the threads of the previous chapters and responses of interviewees and outline a possible agenda for reform. In doing so, at least four broad considerations must be borne in mind:

- the desirability of having clear criteria to assess the merits of any reforms – or package of reforms
- the need to recognise that any reforms will be constrained by various constitutional considerations
- the need to take proper account of the evolving policy landscape
- the absence of any simple solutions or silver bullets and the related desirability of a holistic or systematic approach.

Assessment criteria

As argued in chapter 5, any proposals to enhance the current model of parliamentary scrutiny need to be assessed against clear criteria. Chapter 5 outlines four such criteria: political and public engagement; robustness; impact; and durability. It is recognised, of course, that applying these criteria poses challenges. For instance, it is often hard to predict the likely impact of specific changes on political behaviour or policy outcomes. Similarly, some changes may satisfy several criteria but not others. Ideally, the aim should be to implement a package of reforms that best satisfies the suggested criteria.

Constitutional considerations

Any proposed reforms must have regard to New Zealand's constitutional arrangements. Three matters deserve mention in this context. First, the Crown has obligations under the Treaty of Waitangi and the various principles that it embodies. One of these is the important concept of *kaitiakitanga*, which means guardianship and protection. Exercising wise guardianship, as discussed in chapter 3, is fundamental to good long-term governance. Second, as highlighted in chapter 5, by convention any changes to the Standing Orders require overwhelming support; they cannot be imposed by a simple parliamentary majority. In effect, this means that any amendments require cross-party support. Third, some of the wider changes suggested by interviewees, such as increasing the term of Parliament to four years, would require endorsement in a referendum.

An evolving policy landscape

Robust parliamentary scrutiny depends crucially on the quality of information, evidence and analysis available to MPs about such matters as:

- the performance of the Government and public agencies
- the impact of public policies on societal outcomes
- expected future trends and societal outcomes
- the assessment of current and future risks, and governmental preparedness
- assessed levels of resilience and sustainability.

Accordingly, efforts to enhance parliamentary oversight should go hand in hand with initiatives to improve the quality of the overall framework of performance management, including monitoring, reporting and policy evaluation.

In this regard, many reforms are under way, as discussed in chapter 4, which will impact on the context, resources and opportunities for parliamentary scrutiny. This includes proposed changes to the State Sector Act 1988 and Public Finance Act 1989, the development of a wellbeing approach to budgetary management and the establishment of the independent fiscal institution. At the time of writing, the precise nature and extent of these reforms remained uncertain. Consequently, their implications for the different layers of parliamentary scrutiny, including the role of the OAG, cannot be properly assessed. In these circumstances, any strategy to enhance parliamentary scrutiny of long-term governance will need to be flexible and iterative.

Various implications follow from this. First, the forthcoming review of the Standing Orders clearly provides an opportunity for reform. But any changes will need to have proper regard to the evolving policy landscape. Second, those leading the current public management reform agenda must give serious consideration to the role of Parliament. Indeed, a core objective should be to enhance the capacity, opportunities and incentives for parliamentary scrutiny, including scrutiny of long-term matters. Third, there should be a clear understanding that further changes to the Standing Orders may be needed (e.g., in 2022–23) once the proposed legislative reforms have been fully enacted.

No silver bullet ... and hence the need for a broad, systematic approach

It is clear from the structures, procedures and practices of legislatures in other parliamentary democracies (see chapter 6) that no ideal or perfect way exists to design a framework for parliamentary scrutiny, whether for assessing the quality of governance generally or, more specifically, for assessing *long-term* governance. Similarly, no single, simple reform – whether to the Standing Orders, the term of Parliament or the system of public management – is likely to generate transformative change or dramatic improvements. This is because the incentives and capacity for legislatures to undertake scrutiny of a government's performance (including future focused scrutiny) are affected by numerous constitutional, institutional, analytical and cultural factors.

Hence, as highlighted in chapter 5, any endeavour to improve parliamentary scrutiny, and specifically the scrutiny of long-term governance, should engage with, and ideally strengthen, each layer of scrutiny: the political layer, the institutional layer (i.e., in both the legislature and the executive branch), formal accountability and public scrutiny. In short, a concerted, holistic and systematic approach is required. This should include changes to the Standing Orders. But it must also consider a broader package of reforms. Ideally, these should be complementary, integrated and reinforcing. Of course, this leaves open the question of precisely which combination might be best. No doubt any answer will depend on what specific reforms, at any given time, are politically feasible.

Options for reform

Turning to specifics, five broad categories of changes deserve consideration:

1. changes to the Standing Orders designed to enhance the capacity of, and incentives for, Parliament to scrutinise governmental performance, particularly with respect to long-term governance
2. changes designed to enhance the engagement of parliamentarians on long-term issues (e.g., via new advisory and scrutiny mechanisms involving MPs)
3. improvements to the structures and systems of advice for Parliament
4. changes to current policy frameworks, including institutional, reporting and procedural arrangements
5. reforms of a constitutional or quasi-constitutional nature.

Within each of these five categories are many possible reform options. Drawing on the preceding discussion and table 5.2, the various options are summarised in table 7.1. Chapters 8, 9 and 10 explore these options and possible variants in more detail.

Table 7.1: Options for enhancing parliamentary scrutiny of long-term governance

Possible changes to the Standing Orders and related parliamentary processes	
1	<p>Change the size and structure of select committees</p> <ul style="list-style-type: none"> • Reduce the average size of subject select committees to facilitate more rigorous scrutiny and enable the creation of at least one new committee. • Amend the current structure of select committees by: <ul style="list-style-type: none"> - establishing a new specialist committee with a mandate to examine long-term governance (e.g., a Committee for the Future) or - establishing a new specialist committee to examine all matters of governance, including long-term governance (e.g., a Governance Committee). • Encourage any new select committee with a particular responsibility for long-term governance to conduct joint inquiries, when appropriate, with the relevant subject select committee.
2	<p>Encourage scrutiny of long-term matters by select committees through changes to parliamentary rules</p> <ul style="list-style-type: none"> • <i>Subject area</i>: add a new subject area of 'long-term governance' to the list of subject areas for which an existing select committee is responsible (e.g., Governance and Administration). • <i>Specialist function</i>: create a new specialist function of 'long-term governance' (or 'governance') with specified responsibilities, and allocate this function either to an existing select committee (e.g., Governance and Administration) or a new specialist committee (e.g., Governance). • <i>Outcome reviews</i>: require subject select committees, when undertaking their annual reviews of public agencies, to examine the outcomes being achieved, including progress towards meeting long-term strategies, goals and targets. • <i>Departmental or sectoral stewardship reviews</i>: require subject select committees to undertake a stewardship review of a department or a particular sector each parliamentary term. • <i>System-wide stewardship reviews</i>: require the Governance and Administration Committee (or a Governance Committee) to undertake triennial reviews of the implementation and effectiveness of the stewardship provisions in the State Sector Act 1988 (or any subsequent legislation), including ways to enhance long-term stewardship and parliamentary scrutiny of such matters. • <i>Triennial inquiries into policy issues with major intergenerational implications</i>: provide greater encouragement and support to subject select committees to undertake at least one inquiry each parliamentary term of a policy issue with major implications for intergenerational wellbeing. • <i>Responding to reports from Officers of Parliament</i>: make changes to increase the extent to which select committees and the House of Representatives (the House) examine and respond to reports from Officers of Parliament in a timely manner. • <i>Examining progress in relation to major government strategies</i>: require select committees periodically to examine progress towards the achievement of major governmental strategies and long-term goals. • <i>Reviewing the long-term implications of legislation</i>: guide subject select committees, when examining bills, towards considering their long-term implications. This could include the development of a template to guide the initial briefing on a bill provided by departmental advisors, and the inclusion in such a template of a requirement, where relevant, for officials to brief committees on the expected long-term outcomes of the legislation. • <i>Terms of reference for inquiries</i>: encourage subject select committees to include long-term matters, where relevant, in their terms of reference for inquiries.
3	<p>Provide greater consideration of long-term matters by the House</p> <ul style="list-style-type: none"> • Amend SO 354 to require the <i>Prime Minister's statement</i> at the beginning of each year to include information about long-term matters (e.g., the Government's strategies for addressing major long-term challenges), and possibly require the statement to be referred to the Governance and Administration Committee (or a Governance Committee) for consideration. • Amend arrangements for oral questions in the House to provide for periodic sessions focusing on long-term matters. • Institute <i>special debates</i> on major issues, including those with significant long-term implications, and especially select committee reports on inquiries and briefings on long-term issues.

4	<p>Institute mechanisms to enhance legislative processes and encourage durable cross-party agreements on major long-term issues</p> <ul style="list-style-type: none"> • Encourage <i>pre-legislative consultation</i> with parties across the House (as well as with the public), to foster durable legislative solutions. • Explore with relevant central agencies whether <i>regulatory impact analysis</i> should give greater weight to long-term outcomes and risks of legislative proposals, where applicable. • Request the Government to adjust requirements for <i>disclosure statements for legislation</i> to include an indication of whether an analysis has been carried out of: (a) long-term issues and objectives that the legislation will address, and (b) the expected long-term outcomes of the legislation, and, if so, where that analysis is available.
5	<p>Change the way subject committees organise and conduct their activities</p> <ul style="list-style-type: none"> • Enhance the efficiency and effectiveness of the select committee system: <ul style="list-style-type: none"> - consider amending SO 201 to require that the chairpersons and deputy chairpersons of select committees are allocated across the parties in accordance with the principle of proportionality (i.e., based on the relative size of each parliamentary party), as for instance in the House of Commons in the United Kingdom - consider amending SO 201 to require specified select committees to be chaired by a member of an Opposition party (e.g., the Finance and Expenditure Committee and the Governance and Administration Committee) - improve the training and development opportunities of select committee chairpersons - seek ways to ensure that the workload of subject committees is more evenly balanced, both in terms of the relative workload of each committee and the flow of work across the parliamentary term - encourage select committees to undertake better forward planning of their work programmes at the beginning of each parliamentary term and on an annual basis, including provision for the conduct of inquiries - institute a formal review system to track progress in relation to select committee recommendations - encourage subject select committees to establish external reference groups of experts to advise them on major long-term policy issues in their sector - endorse the development by the Office of the Clerk of best practice templates for the conduct of inquiries by select committees - institute briefings to select committees (e.g., by government departments and non-governmental organisations) at the beginning of each parliamentary term on the 'big issues' in their specific areas of responsibility. • Alter the way select committees scrutinise the Estimates and conduct annual reviews: <ul style="list-style-type: none"> - increase the time allocated for hearings and questioning during the examination of the Estimates - free up time for more in-depth examination of the performance of departments and agencies by moving in many cases to a triennial system of reviews, and adjusting the allocation of time for scrutiny according to the relative importance and size of a department and/or agency and the level of fiscal and other risks - amend the Standing Orders to require statements of strategic intentions to be referred to select committees for examination, possibly as part of the annual review process - conduct annual reviews based on sectors, with possible sector-wide reports addressing progress towards outcomes - for Estimates and annual reviews, explore joint committee consideration of broad, cross-sector programmes - improve the range and quality of performance information provided to select committees, by departments, agencies and the Office of the Auditor-General (OAG), for instance via: <ul style="list-style-type: none"> • multi-year performance data to enable the analysis of important trends

5	<ul style="list-style-type: none"> • standardised comparative data across agencies, where applicable • reports on progress towards meeting significant objectives • information on departmental and agency responses to concerns raised in previous years by the OAG and/or select committees <ul style="list-style-type: none"> - review questions sent to departments and agencies as part of the annual review process to ensure they include more questions about long-term issues, including strategies, plans, goals and targets, as well as progress towards achieving relevant outcomes - encourage ministers to make themselves available to appear before select committees during the annual review process to discuss progress towards long-term outcomes - require departments to report on their progress towards implementing the recommendations of select committees where these have been endorsed by the Government.
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Other mechanisms to encourage members of Parliament (MPs) to engage with long-term issues

6	<ul style="list-style-type: none"> • Establish a Futures Forum Aotearoa (e.g., modelled on Scotland's Futures Forum): <ul style="list-style-type: none"> - such a forum would include MPs from across the House, representatives of major sector groups and leading researchers. • Establish a contestable fund to support the activities of cross-party parliamentary groups. • Provide a mechanism for cross-party parliamentary groups to generate reports and have them debated in the House.
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Changes to improve advice for MPs and select committees

7	<ul style="list-style-type: none"> • Increase funding to enable greater use of independent experts to help subject select committees with their review and oversight activities. • Provide additional research, analytical and advisory support for subject committees via the Officers of Parliament (i.e., the Auditor-General and Parliamentary Commissioner for the Environment), the OOC, the Parliamentary Library and possibly the proposed independent fiscal institution. • Enhance the linkages between Parliament and the research community, both within New Zealand and more broadly, including the Royal Society of New Zealand Te Apārangi. • Appoint a Chief Parliamentary Science Advisor: <ul style="list-style-type: none"> - appointee could be a sole advisor or could lead a small Parliamentary Office of Science and Technology (POST) (e.g., similar to POST in the United Kingdom Parliament).
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Changes to improve advice for MPs and select committees

8	<ul style="list-style-type: none"> • Establish new institutions with specific mandates, among other things, to protect future-oriented interests (e.g., a Welsh-type Future Generations Commissioner). • Amend the Public Finance Act 1989 to enhance the quality of long-term reporting, including better reporting of progress towards achieving long-term strategies, goals and targets. • Strengthen the quality of foresight within the executive (e.g., via the establishment of a dedicated foresight unit within a central agency or across several agencies). • Require all proposals for legislative reform to include an assessment of their consistency with principles of intergenerational fairness and the principle of sustainable development.
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Changes to improve advice for MPs and select committees

9	<ul style="list-style-type: none"> • Enact a written entrenched constitution with the status of supreme law, with specific protections for future generations. • Amend the New Zealand Bill of Rights Act 1990 to enhance protections for future generations. • Extend the term of Parliament to four years, with a fixed or semi-fixed term. • Increase the number of MPs (e.g., from 120 to 150).
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PART 3: PARLIAMENTARY REFORM



Chapter 8: Enhancing parliamentary scrutiny of long-term governance via changes to the Standing Orders

Introduction

This chapter discusses possible changes to the rules and practices of the House of Representatives (the House) to enhance parliamentary scrutiny of long-term governance. The aim is to outline and evaluate options for reform. While specific recommendations are not advanced, it will be evident that some options merit greater consideration than others.

Most of the options considered focus on strengthening the *incentives* and *opportunities* for parliamentarians to undertake scrutiny of long-term governance by amending various parliamentary structures and procedures. In addition, the chapter explores other mechanisms to encourage and enable members of Parliament (MPs) to engage with major long-term issues. This includes the idea of establishing a *Futures Forum Aotearoa* modelled on Scotland's Futures Forum (see chapter 6) and bolstering financial and administrative support for cross-party parliamentary groups. Subsequently, chapter 9 explores options for enhancing the advisory and analytical *resources* required for robust scrutiny of governmental performance, while chapter 10 examines broader policy and constitutional reforms.

While this chapter's main focus is on enhancing parliamentary scrutiny of *long-term* governance, as many interviewees highlighted, better scrutiny of long-term matters ultimately depends on a stronger *overall system of scrutiny*. Hence, some of the options outlined below are directed towards this broader objective. The discussion that follows is informed by the indicators for evaluating parliamentary scrutiny outlined in table 5.2 and the perspectives of interviewees, as summarised in chapter 7.

The Standing Orders could be amended in various ways to enhance parliamentary scrutiny of long-term governance. While some are distinct or standalone, others are closely interconnected and would thus make sense to implement concurrently. Similarly, while some proposals are designed to build upon, extend or enhance existing practices, others involve new approaches or more significant reforms. In particular, six types of changes warrant consideration:

1. amending the current structure of select committees by:
 - a. establishing a new specialist committee with a mandate to examine long-term governance (e.g., a Committee for the Future); or
 - b. establishing a new specialist committee to examine all matters of governance, including long-term governance (e.g. a Governance Committee)
2. adding a new subject area of 'long-term governance' to the list of subject areas for which an existing committee is responsible (e.g., Governance and Administration)
3. creating a new specialist function of 'long-term governance' (or 'governance') with specified responsibilities, and allocating this function either to an existing select committee (e.g. Governance and Administration) or a new specialist committee (e.g. Governance)
4. encouraging or mandating select committees to undertake particular kinds of long-term scrutiny
5. changing the way subject committees organise and conduct their activities
6. enhancing the opportunities for parliamentary debates on long-term matters and future-focused governmental reports.

These options are not mutually exclusive. Moreover, many combinations and permutations are possible. Because the first four options are closely connected, they are explored together.

Reforming the current structure and functions of select committees

As discussed earlier in this report, the House currently has 12 subject select committees and five specialist committees. The subject select committees are multi-purpose. Hence, they examine bills, review the Estimates for spending in their areas of responsibility, conduct annual reviews of the performance of government departments and agencies, undertake inquiries and consider petitions and international treaties. Of the specialist committees, only the Regulations Review Committee is dedicated to scrutiny and oversight. Accordingly, there is no specialist committee comparable to the Public Accounts Committee at Westminster or the Committee for the Future as in Finland (see chapter 6). Equally, among the various functions of select committees, there is no specialist function such as 'long-term governance', 'long-term matters' or 'intergenerational issues', and thus no committee with a specific mandate to examine these matters.

Specific issues of institutional design

If the current select committee model were to be refashioned to enhance parliamentary scrutiny of long-term governance, several broad issues of institutional design would arise. One is whether it would be better to alter the current structure of committees, perhaps by creating a new specialist committee, or to add a new responsibility for long-term governance to an existing subject committee. The latter approach could simply entail including a new subject area of 'long-term governance' in the relevant committee's list of subject areas. Alternatively, a new specialist function could be created and defined under the Standing Orders and assigned to a particular committee – either an existing committee or a new one.

It might be argued that consideration should be given to more fundamental modifications to the existing framework of multi-purpose committees, for instance, by establishing separate committees for examining legislation and scrutinising governmental and agency performance. Radical changes of this nature are not considered here, for two reasons. First, a clear majority of interviewees who commented on such ideas were opposed to a major shake-up of committee structures. Second, it is questionable whether such changes – at least on their own – would improve the scrutiny of *long-term* governance.

A separate issue concerns the availability of MPs to serve on any new committee, particularly if the overall number of committees were to increase as a result. As discussed in previous chapters, the availability of MPs to serve on select committees is limited, especially in the case of government backbenchers. It would thus be difficult to establish even one additional committee (let alone two) without the risk of a negative impact on the work programmes and effectiveness of existing committees. A possible solution would be to reduce the size of some (or all) subject committees (e.g., to an average of 7–9 members). The Report of the Standing Orders Committee in July 2017 supported such a move.¹ But the report also rejected the idea of specifying the number of seats in the Standing Orders. Instead, it was argued that the Business Committee should retain its ability to set the size of each committee. This conclusion may be worth revisiting.

A related issue concerns committee workloads and capacity. Most committees are busy and have little spare capacity. This is particularly true of the Finance and Expenditure Committee (FEC), the Governance and Administration Committee and the Justice Committee. Realistically, adding a new responsibility of long-term governance to these committees – whether in the form of a new subject area or specialist function – would place extra pressures on them. Thus, the risk is that the new responsibilities would be given only modest attention or existing functions would suffer. On the other hand, with the normal variation in workload, some subject committees may have the capacity to take on new responsibilities. The difficulty, of course, is predicting which committees may have such capacity and when.

Yet another issue is whether the responsibilities of select committees could be divided (either partially or fully) on the basis of their *temporal* focus. Currently, select committees have responsibilities across time: past, present and future. Hence, they all engage in both backward-looking and forward-looking scrutiny. This means they examine how well public agencies have performed in the recent past and whether they are adequately preparing for the future. But, as noted, forward-looking scrutiny often receives less attention

¹ See Report of the Standing Orders Committee, *Review of Standing Orders*, Fifty-first Parliament, July 2017, pp 18–19. https://www.parliament.nz/resource/en-NZ/SCR_74675/70c7a3972ff528fea2a062cc9aad17b6507200c3

than it deserves. It also tends to be focused on a short-term horizon (generally one year). The risk is that mandating a particular committee to concentrate on long-term matters will reduce the incentives for others to do so – ultimately with no net gain. This matter is discussed further below.

Finally, there is the question of whether the FEC's responsibilities should be altered in some way, perhaps becoming more like a Public Accounts Committee (PAC), as in the United Kingdom. Interviewees suggested several options:

- refashion the FEC into a PAC to conduct all Estimates examinations. This would include scrutinising the value for money – including the economy, efficiency, effectiveness and equity – of all public spending, and the design and implementation of public services
- transfer FEC's legislative responsibilities to one or more existing committees or perhaps a new committee
- confer on the PAC the responsibility for examining all budgetary documents and all economic and fiscal reports: the fiscal strategy report, the economic and fiscal update, the half-year economic and fiscal update, the Treasury's statement on the long-term fiscal position and the investment statement
- give the PAC a particular mandate under the Standing Orders to explore a range of long-term policy issues, such as the fiscal implications of major technological, economic, social, cultural or environmental trends and developments, and the implications of current policy settings for intergenerational equity.

Refashioning the FEC into a PAC would have several advantages. It would likely increase the rigour and depth with which public expenditure is scrutinised. It would relieve the other subject committees of the responsibility to examine the Estimates in their policy areas thus freeing up a modest amount of time for other activities, such as inquiries. Moreover, giving the PAC specific responsibilities for certain long-term policy issues would enhance parliamentary scrutiny of matters of an intergenerational nature.

Nevertheless, few interviewees supported major change to, let alone the abolition of, the FEC. It plays an important coordinating role within the legislature and is regarded as a training ground, and stepping stone, for higher office. If the FEC were to be transmuted into a PAC, its current legislative responsibilities would need to be undertaken by another subject committee – either an existing or a new one. But a new committee would create a number of additional committee positions to fill, even if both the PAC and new legislative committee were smaller than the current FEC. Moreover, members of other subject select committees value the opportunity to consider the Government's spending plans in their respective portfolios and to examine ministers.

New subject area of 'long-term governance'

Rather than establishing a new specialist committee or significantly altering the responsibilities of existing committees, another option (as noted) would be to add a new subject area of 'long-term governance' or 'long-term matters' to the list of subject areas for which an existing committee is responsible under Standing Order 188 (e.g., Governance and Administration). This would signal to the committee that it should give specific attention to future-oriented issues and examine whether governments are fulfilling their duty of care to future generations. As such, the committee could use its existing power under Standing Order 189(2) to 'receive briefings' or 'initiate inquiries' about matters of 'long-term governance'. It would, in effect, serve as a commitment device to encourage deliberation about long-term matters.

This option poses several problems. To start with, without additional clarification, the meaning of 'long-term governance' would remain uncertain. This is because, as noted in chapter 1, the concepts of 'long term' and 'governance' have the potential to mean many different things. Further, the relevant committee would have discretion over whether to receive briefings or conduct inquiries, and would not be formally required to report to the House. The risk is also that the other responsibilities of the committee would overshadow any consideration of 'long-term governance'. Potentially, too, other subject committees might conclude that, if long-term governance is allocated to a particular committee, then it is no longer their responsibility. Overall, a commitment device of this nature would be weak. In all likelihood it would make relatively little difference to the rigour or depth of parliamentary scrutiny of long-term governance.

New specialist function of ‘long-term governance’

An alternative approach would be to amend the Standing Orders to create a new specialist function of ‘long-term governance’ (or wording of a similar nature). In effect, this would constitute a new type of business under the Standing Orders. Such a function could be allocated either to an existing committee or a new one. Procedural triggers could also be instituted to strengthen the effectiveness of this approach (e.g., a new statutory requirement could be enacted that would then trigger a subsequent committee process or the relevant committee could be specifically required to report to the House annually on ‘long-term governance’).

The exact nature of the new type of business would require careful consideration. It may also need to reflect the Government’s proposed public management reforms and whether, for instance, government departments (or groups of departments) are obliged in the future to produce ‘long-term insights briefings’ and/or ‘stewardship reports’ (see chapter 4). An interim option would be to incorporate within the specialist function explicit reference to existing forms of long-term reporting, such as departments’ periodic reports on their strategic intentions and/or the Treasury’s Long-Term Fiscal Statement (see chapter 3).

Potentially, the specialist function of ‘long-term governance’ could incorporate one or more of the following responsibilities:

- examining reports by the Government, public agencies and non-governmental organisations on long-term matters, including the Treasury’s long-term fiscal statement and investment statements, assessments of major national risks, and progress reports in relation to long-term strategies, plans and targets (e.g., those relating to child poverty reduction, the protection of biodiversity, and the Sustainable Development Goals)
- receiving briefings on, or initiating inquiries into, long-term matters (e.g., disruptive technologies, population ageing, antimicrobial resistance, cybersecurity, geopolitical shifts, biodiversity loss, and the intergenerational fairness of existing or proposed policies)
- undertaking stewardship reviews of government departments (i.e., assessing how departments are fulfilling their stewardship responsibilities under the State Sector Act 1988 or any subsequent legislation)
- considering the long-term implications of a bill that is before another committee, and reporting to that committee on the bill
- initiating inquiries into the quality of anticipatory governance, including ways to improve kaitiakitanga (guardianship), enhance intergenerational wellbeing and protect the interests of future generations, improve resilience and sustainability, and tackle significant creeping policy problems
- scrutinising the foresight activities of public agencies
- examining how the House can improve the quality of its scrutiny of long-term matters.

In accordance with such an approach, scrutiny of ‘long-term governance’ would include the activities of both central and local government and embrace all types of public organisations. Box 8.1 outlines the wording of a possible amendment to the Standing Orders to create the specialist function of long-term governance.

In theory, at least two new specialist functions with a long-term focus could be created. For instance, one could be ‘long-term governance’ while another could be ‘intergenerational fairness’ (or perhaps ‘intergenerational wellbeing’). Under this approach, the two functions would be differentiated on the basis of certain criteria, with discrete responsibilities assigned to each function. In practice, however, it is likely the two functions would overlap, especially given the broad meaning that is commonly attached to ‘governance’ (as discussed in chapter 1). Accordingly, unless the two new specialist functions were allocated to a single committee, there is potential for confusion and a duplication of effort.

Box 8.1: Possible amendments to the Standing Orders for the establishment of a specialist function of long-term governance for an existing subject select committee

LONG-TERM GOVERNANCE

392A Long-term governance functions of Governance and Administration Committee

- (1) In addition to the functions set out in Standing Order 189, the Governance and Administration Committee scrutinises the long term governance of New Zealand. For this purpose, the committee—
 - (a) may receive briefings on, or initiate inquiries into, long-term matters:
 - (b) undertakes or refers stewardship reviews:
 - (c) examines the strategies, plans and foresight activities of departments and public agencies.
- (2) A briefing or inquiry may be conducted under paragraph (1)(a) despite the subject-matter of that briefing or inquiry being contained in the subject area of another subject select committee.
- (3) In carrying out its functions under this Standing Order, the committee may consider and report to the House jointly with another subject select committee.

392B Stewardship reviews

- (1) When a stewardship report is presented to the House, a stewardship review of the matters contained in the report stands referred to the Governance and Administration Committee.
- (2) The committee may consider a stewardship review itself, or, if another select committee agrees to consider the stewardship review, may refer the stewardship review to that committee for consideration.
- (3) The committee considering a stewardship review must report to the House on the stewardship review within three months of the date on which the stewardship report was presented to the House.

It might be objected that creating a new specialist function of 'long-term governance' and allocating this function to a particular committee would lessen the incentives for other select committees to undertake forward-looking scrutiny in their respective areas of responsibility. A related issue is whether creating a committee dedicated to long-term matters (i.e., a Committee for the Future) would generate a similar outcome. These matters are discussed below.

One possible solution would be to foster a more flexible approach, with committees working jointly. In this way, a committee with a particular focus on, and expertise regarding, long-term governance could bring an extra dimension to the inquiry work of other select committees, as discussed shortly.

New specialist function of 'governance'

Another option would be to create a new specialist function of 'governance' of which long-term governance would be an integral part. This function could be allocated either to a new committee or an existing one. Defining 'governance', however, is likely to pose problems. As highlighted in chapter 1, the concept is broad. Potentially it includes all the processes and institutions of governing. An immediate issue, therefore, would be how to limit the scope of the specialist function and thereby avoid undue duplication of effort or conflicts between the roles of various committees.

One way forward would be to define 'governance' in the Standing Orders and specify several specific activities or responsibilities. These might include one or more of the following:

- examining reports by the Government, public agencies and non-governmental organisations on all matters relating to governance, particularly issues of institutional design, priority setting, accountability and stewardship
- examining whole-of-government and system-wide matters, including the overall performance of the public service (e.g., issues of capacity, capability and effectiveness)
- receiving briefings on, or initiating inquiries into, matters of governance, including ways to improve the quality of governance
- examining the strategies, plans and targets of governments and public agencies, and reviewing progress
- examining how national risks are identified, minimised and managed
- examining all matters of long-term governance (as specified earlier).

But however a specialist function of 'governance' were to be defined, delineating the boundaries of the function would be challenging.

Committee for the Future

Under this option, a new specialist committee would be established dedicated to the scrutiny of 'long-term governance'. Such a committee could be called the 'Committee for the Future' (as in Finland), the 'Future Generations Committee' or the 'Intergenerational Wellbeing Committee'. Alternatively, it could be given an appropriate name in te reo Māori. Establishing such a committee would require an amendment to Standing Order 184(1)(b) and the insertion of a new Standing Order setting out the committee's specialist functions.

The precise mandate of such a committee would depend on how 'long-term governance' were to be defined. But, as argued, it could be interpreted broadly to include (see also box 8.2):

- examining major reports on long-term matters
- collaborating with other select committees on the initiation and conduct of inquiries about long-term matters
- receiving briefings on, or initiating inquiries into, long-term matters
- undertaking stewardship reviews of government departments
- considering the long-term implications of a bill that is before another committee, and reporting to that committee on the bill
- developing criteria for assessing long-term governance, and monitoring government performance against those criteria
- conducting question sessions with ministers about long-term matters
- examining the quality of governmental foresight.

Box 8.2: Possible amendments to the Standing Orders for the establishment of a specialist committee – Committee for the Future

184 Establishment and life of select committees

- (1) The following select committees are established at the commencement of each Parliament:
- (a) the subject select committees specified in Standing Order 188, and
 - (b) the Officers of Parliament Committee, the Privileges Committee, the Regulations Review Committee, the Committee for the Future, and the Standing Orders Committee.

...

COMMITTEE FOR THE FUTURE

392A Functions of Committee for the Future

- (1) The Committee for the Future scrutinises the long term governance of New Zealand. For this purpose, the committee—
- (a) may receive briefings on, or initiate inquiries into, long-term matters:
 - (b) may consider the long-term implications of a bill, under paragraph (2):
 - (c) undertakes stewardship reviews:
 - (d) considers reports that stand referred under Standing Order 392C:
 - (e) examines the strategies, plans and foresight activities of departments and public agencies.
- (2) The committee may consider the long-term implications of a bill that is before another committee, and may report to that committee on the bill.
- (3) A briefing or inquiry may be conducted under paragraph (1)(a) despite the subject matter of that briefing or inquiry being contained in the subject area of a subject select committee.
- (4) In carrying out any of its functions, the committee may consider and report to the House jointly with a subject select committee.

392B Stewardship reviews

- (1) When a stewardship report is presented to the House, a stewardship review of the matters contained in the report stands referred to the Committee for the Future.
- (2) The committee must report to the House on the stewardship review within three months of the date on which the stewardship report was presented to the House.

392C Long-term statements

- (1) The following reports stand referred to the Committee for the Future:
- (a) statement on the long-term fiscal position:
 - (b) investment statement.
- (2) The committee must report—
- (a) on the statement on the long-term fiscal position within six months of the presentation of that statement:
 - (b) on the investment statement within two months of the presentation of that statement.
- (3) A debate on the statement on the long-term fiscal position, or on the investment statement, is held in place of the first general debate after the committee's report on that statement is presented. The chairperson of the Committee for the Future (or, in the chairperson's absence, another member of the committee) may move a motion relevant to the report and speak first.

A mandate of this nature would be similar, although not identical, to that of the Finnish Committee for the Future (see chapter 6). As in Finland, such a committee would not be obliged to examine bills, scrutinise Estimates or conduct annual reviews of public agencies. It would thus have the necessary time for detailed and independent analysis of important policy and regulatory issues, including scrutinising how well governments and public agencies are preparing for various long-term policy challenges. Given the focus on oversight and the scrutiny of government policy, it may be preferable for an Opposition MP to chair such a committee.

There are several reasons, however, for caution regarding the likely feasibility, effectiveness, and durability of such a committee. First, unlike the situation in Finland, New Zealand lacks a political culture that places a high value on foresight, forward-looking scrutiny or the rights of future generations. Hence, no wider ecosystem of future-focused institutions is in place, including research centres dedicated to foresight or departmental units dedicated to long-term policy analysis, trend analysis or strategic thinking. For such reasons, any parliamentary Committee for the Future in New Zealand would – at least initially – lack strong institutional support and a policy community keen to contribute to, and engage with, its outputs. Equally, the Government is not currently required to produce a periodic, high-profile report on the future. This means any such committee would operate, unlike its Finnish counterpart, without a key governmental document to scrutinise and inform its work programme. Against this, there are of course the Treasury's periodic Long-term Fiscal Statements and Investment Statements (although they occur only four yearly).

Second, to be effective, such a committee will need to attract capable members who are keen to undertake in-depth inquiries and tackle long-term issues, some of which are of limited (short term) political salience. The risk is that the work of a Committee for the Future in New Zealand would not be seen as a high priority for those seeking political advancement and regular media coverage. While such problems do not appear to have arisen in Finland, its Parliament (with 200 MPs) is substantially larger than New Zealand's. Also, as noted in chapter 6, Finland's political culture is more conducive to the work of such a committee and it has a vigorous foresight ecosystem.

Third, as indicated earlier, there is the issue of whether it would be possible to establish a Committee for the Future without restructuring or abolishing an existing select committee. Even if a new committee was relatively small (e.g., 6–8 members), its creation would place additional pressure on government backbench MPs, many of whom already serve on several committees.

Fourth, there is the potential for overlap between the responsibilities of a specialist Committee of the Future and several existing subject-specific select committees (e.g., the Economic Development, Science and Innovation Committee or the Environment Committee). Equally, there is the question of where the boundary between 'long-term governance' and other governance matters might be drawn. After all, many current governance issues (e.g., the governance of schools and hospitals or the governance of climate change adaptation) have long-term implications. But the potential exists for overlap and duplication under all structural approaches, including current ones. Hence, the best solution is to ensure the work programmes of select committees are properly coordinated.

Finally, there is a risk that the existence of a Committee for the Future would reduce the (already weak) incentives for other subject committees to conduct major inquiries or undertake future-focused scrutiny. But committees currently undertake relatively few inquiries, and temporally distant policy challenges tend to attract little political attention. Hence, establishing a Committee for the Future is unlikely to change the current priorities of subject-specific committees.

Governance Committee

An alternative to creating a specialist Committee for the Future would be to establish a Governance Committee (or perhaps an Oversight and Stewardship Committee). Whereas the former committee would focus *exclusively* on matters of long-term governance, a Governance Committee would have a broader remit. The precise nature of this would require careful consideration. Potentially such a committee could be a specialist committee or a subject committee with a particular set of subject areas.

One way of establishing such a committee would be to divide the responsibilities of the Governance and Administration Committee. At present, this committee is responsible for the following subject areas: parliamentary and legislative services, Prime Minister and Cabinet, State Services, statistics, internal affairs, civil defence and emergency management, and local government. As with other subject committees, the current committee undertakes both legislative and scrutiny functions.

The committee's existing responsibilities could be divided in various ways. One possibility would be to create an Internal Affairs and Local Government Committee (as previously existed between 1985 and 1999) and assign the other subject areas to the Governance Committee. Under this approach, each committee would have responsibilities for both legislation and scrutiny.

The mandate of the Governance Committee could be delineated in numerous ways (see box 8.3). For instance, it could be allocated various subject areas and a responsibility to undertake a new specialist function of 'governance' or 'long-term governance'. Whatever the preferred approach, several issues are likely to arise. First, the risk is that, if the committee has multiple responsibilities, matters of long-term governance will receive a lower priority than those of an immediate or urgent nature. Second, however the specialist functions of 'governance' or 'long-term governance' are defined, boundary issues are likely to occur. Third, as noted earlier, establishing a new committee will raise workload and capacity issues for MPs.

Joint inquiries into long-term matters

If the establishment of a Committee for the Future or a Governance Committee were to be seriously considered, it would be important to reflect on its relationship with other select committees and how its inquiry activity might be pursued in the most effective manner. One possibility would be for any new committee to conduct joint inquiries, when appropriate, with an existing committee. Hence, an inquiry into a topic such as the future of work might be undertaken jointly with the Education and Workforce Committee, while an inquiry into the implications of climate change for the agricultural sector might be conducted jointly with the Primary Production Committee. Joint inquiries are relatively common in many legislatures elsewhere in parliamentary democracies. Such an approach is already possible under the Standing Orders. Nevertheless, the rules would need to be clarified if joint committee activities were to become more common.

Summary

The current structure and functions of select committees could be modified in multiple ways in the interests of enhancing parliamentary scrutiny of long-term governance. Only some of the possible permutations and combinations have been considered here.

Each option has advantages and disadvantages. Changing current committee structures, especially if this entails a net increase in the number of committees, is likely to require downward adjustments to the size of several existing committees. Adding a new specialist function, whether of 'governance' or 'long-term governance', will require close attention to the way such a function is specified in the Standing Orders. If the primary objective is to enhance the scrutiny of long-term governance, establishing a committee dedicated to such a task has a certain logic. But it is uncertain whether it would be better to create a specialist Committee for the Future (as outlined above) or a Governance Committee that included in its remit a specialist function of long-term governance. Both approaches are likely to be viable. However, to be effective and durable, they would need strong cross-party backing, a carefully specified mandate and significant analytical support.

Finally, merely adding a new subject area of long-term governance to the responsibilities of an existing subject committee, and providing little or no guidance as to what this subject area might entail, is unlikely to contribute to better forward-looking parliamentary scrutiny.

Box 8.3: Possible amendments to the Standing Orders for the establishment of a specialist committee – Governance Committee

188 Subject select committees

The subject select committees and their subject areas are—

...

Internal Affairs and Local Government Committee: internal affairs, local government

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

Governance Committee: parliamentary and legislative services, Prime Minister and Cabinet, State services, statistics, civil defence and emergency management

...

GOVERNANCE COMMITTEE

392A Functions of Governance Committee

- (1) The Governance Committee scrutinises the governance of New Zealand, including all matters of governance, long-term governance and stewardship. For this purpose, the committee—
 - (a) may receive briefings on, or initiate inquiries into, governance matters, including ways to improve the quality of governance:
 - (b) may carry out a strategic review of any department, Crown entity, or public organisation, including the examination of its strategies, plans, and foresight activities:
 - (b) may consider a bill, under paragraph (2):
 - (c) undertakes stewardship reviews:
 - (d) considers reports that stand referred under Standing Order 392C.
- (2) If a bill is being considered by another select committee, the Governance Committee may consider the implications of the bill for matters of governance, or the long-term implications of the bill, and report on the bill to the other committee.
- (3) The committee's functions under this Standing Order are additional to the normal functions of subject select committees and any other functions conferred on the committee under the Standing Orders.
- (4) A briefing, inquiry or strategic review may be conducted under paragraph (1)(a) or (b) despite the subject matter of that briefing, inquiry or strategic review being contained in the subject area of another subject select committee.
- (5) In carrying out any of its functions, the committee may consider and report to the House jointly with another select committee.

392B Stewardship reviews

- (1) When a stewardship report is presented to the House, a stewardship review of the matters contained in the report stands referred to the Committee for the Future.
- (2) The committee must report to the House on the stewardship review within three months of the date on which the stewardship report was presented to the House.

392C Long-term statements

- (1) The following reports stand referred to the Committee for the Future:
 - (a) statement on the long-term fiscal position:
 - (b) investment statement.

- (2) The committee must report—
 - (a) on the statement on the long-term fiscal position within six months of the presentation of that statement:
 - (b) on the investment statement within two months of the presentation of that statement.
- (3) A debate on the statement on the long-term fiscal position, or on the investment statement, is held in place of the first general debate after the committee's report on that statement is presented. The chairperson of the Governance Committee (or, in the chairperson's absence, another member of the committee) may move a motion relevant to the report and speak first.

Encouraging select committees to undertake particular kinds of long-term scrutiny

As an alternative or in addition to altering the existing structure and/or functions of select committees, enhancing parliamentary scrutiny of long-term governance could be pursued by amending the Standing Orders to encourage subject committees to undertake specific, future-focused review activities. In short, the aim would be to foster systematic, proactive and forward-looking parliamentary scrutiny through the use of specific procedural triggers and other kinds of commitment devices. The possible options, as outlined in table 7.1, include:

1. *outcome reviews*: require subject committees, when undertaking their annual reviews of public agencies, to examine the outcomes being achieved, including progress towards meeting long-term strategies, goals and targets
2. *departmental or sectoral stewardship reviews*: require subject committees to undertake a stewardship review of a department or a particular sector each parliamentary term
3. *system-wide stewardship reviews*: require the Governance and Administration Committee (or a Governance Committee) to undertake triennial reviews of the implementation and effectiveness of the stewardship provisions in the State Sector Act 1988 (or any subsequent legislation), including ways to enhance long-term stewardship and parliamentary scrutiny of such matters
4. *triennial inquiries into policy issues with major intergenerational implications*: provide greater encouragement and support to subject committees to undertake at least one inquiry each parliamentary term into a policy issue with major implications for intergenerational wellbeing
5. *responding to reports from Officers of Parliament*: make changes to increase the extent to which select committees and the House of Representatives examine and respond to reports from Officers of Parliament in a timely manner
6. *examining progress in relation to major government strategies*: require select committees to examine periodically progress towards the achievement of major governmental strategies and long-term goals
7. *reviewing the long-term implications of legislation*: guide subject committees, when examining bills, towards considering their long-term implications. This could include the development of a template to guide the initial briefing on a bill provided by departmental advisors, and the inclusion in such a template of a requirement, where relevant, for officials to brief committees on the expected long-term outcomes of the legislation
8. *Terms of reference for inquiries*: encourage subject select committees to include long-term matters, where relevant, in their terms of reference for inquiries.

The precise nature of some of these options would need to reflect any future changes to the legislative framework governing public sector management, as discussed in chapter 4. In principle, these options could all be implemented simultaneously. Against this, a highly prescriptive approach in which select committees are obliged to undertake tightly specified tasks is inconsistent with recent parliamentary practice. Realistically, therefore, careful consideration must be given to which of these proposals (or variants of them) is likely to be most efficacious and politically feasible.

Outcome reviews: Refocusing the annual reviews of public agencies

Under Standing Order 345, the FEC allocates to each subject committee (or retains for itself) the task of conducting annual reviews of the performance of all public agencies. This includes reviewing their performance during the previous financial year and their current operations. As discussed in chapter 5, this scrutiny is currently largely backward-looking rather than forward-looking. Hence, little attention is given to the documents that public agencies are required to produce periodically (e.g., every three years) under the Public Finance Act 1989 that focus on strategic intentions and plans (variously called statements of intent, strategic intentions and four-year plans). Equally, only modest consideration is given to long-term planning, investment intentions, risk management strategies, or efforts to enhance resilience and sustainability.

The relevant Standing Orders and practices could be adjusted so that when annual reviews are being conducted (whether by the FEC and/or all subject committees) some, or all, of the following matters are assessed:

- the nature of the outcomes being achieved by each public agency under review and their contribution to prudent long-term governance, including progress towards meeting the Government's long-term objectives and targets
- the agency's strategic intentions and approach to strategic management, including investment
- the agency's planning for future challenges, risks and opportunities
- in the case of departments, their implementation of the stewardship provisions in the State Sector Act 1988 (or any subsequent legislation).

Additionally, a set of specific questions about long-term governance matters could be developed for select committees to include in the annual review questions that are sent to all public agencies. Similarly, the staff of the Office of the Auditor-General (OAG) could be invited to include in their committee briefings advice on each agency's strategic intentions, planning for future risks and opportunities, and the exercise of stewardship. Ultimately, assessments of this nature would be best facilitated through changes to, and better integration of, the statutory reporting requirements for public agencies (i.e., via amendments to the Public Finance Act 1989). Nevertheless, in the meantime, Parliament could commence the process of moving towards a more future-focused approach to scrutiny through the nature of the questions committees ask public agencies and the kind of advice provided by the OAG.

Departmental or sectoral stewardship reviews

As noted in chapter 4, the Government is currently considering the possibility of requiring all government department chief executives to undertake, or contribute to, at least one stewardship review during every parliamentary term. Whether or not this change is enacted, the Standing Orders could be amended to include triennial stewardship reviews in the functions of select committees in their respective areas of responsibility. Such reviews could either be classed as inquiries or a new category of select committee business. Either way, the Standing Orders would require each subject committee to report to the House on how the stewardship responsibilities under the State Sector Act 1988 (or any subsequent Act) are being fulfilled by government departments. At present, such responsibilities include financial, organisational and regulatory stewardship, as well as the capacity to provide free and frank advice to successive governments (see chapter 3).

Stewardship reviews could be conducted in various ways. The best approach is likely to depend on whether and how the relevant legislation is amended over the next few years. However, one option would be for each department (or group of departments) to prepare a special stewardship briefing immediately after each election to the 'incoming committee' on stewardship matters within its remit. Based on this briefing, each committee could then decide where to focus its attention during its triennial review. If this was required by Cabinet, or suggested by the Standing Orders Committee (SOC), departments could be notified of the expectation as soon as the SOC reports, giving time to prepare a report for presentation soon after the subsequent election. Alternatively, the SOC could recommend to committees that they institute a structured programme of incoming briefings. This, however, would provide less opportunity for departments to prepare the briefings.

If relevant legislation were passed to require government departments to conduct stewardship reviews, the Standing Orders could be amended so these review reports would each stand referred to the relevant subject select committee. Each committee could then be required to examine the reviews and report to the House within a specified period.

System-wide stewardship reviews

As noted in chapter 4, the Government is currently considering the possibility of requiring the State Services Commission to produce a report on the public service at least once every parliamentary term (or every three years). Such a report is likely to include a review of how government departments have fulfilled their stewardship responsibilities. Hence, in addition to sub-system stewardship reviews focused on individual departments (or groups of departments), the Standing Orders could require the Governance and Administration Committee to undertake triennial reviews of the quality of public sector management, including stewardship. Such reviews could be required to examine:

1. the implementation, impact and effectiveness of the stewardship provisions in the State Sector Act 1988 (or any subsequent public management legislation)
2. options for enhancing the quality of long-term governance and stewardship
3. options for enhancing parliamentary scrutiny of long-term governance and stewardship.

Under such an approach, the OAG, other Officers of Parliament, external experts and stakeholders could be invited to comment on the triennial report of the State Services Commission before the Governance and Administration Committee's formal review. The Committee could also invite other subject committees to provide advice on ways to enhance the quality of governance and stewardship, including parliamentary scrutiny of such matters. As with many other select committee reports, the Government would be required to respond to the Committee's recommendations within 60 working days (see SO 252(1)). Part of the aim of such reviews would be to encourage MPs to engage with the conceptual and practical challenges of long-term governance and stewardship, thereby securing greater political ownership of the recommendations of the Governance and Administration Committee.

Triennial inquiries into policy issues with major intergenerational implications

Another possible commitment device to encourage more systematic and proactive parliamentary scrutiny of long-term governance would be to signal that each subject committee should undertake at least one inquiry during each parliamentary term focused on a policy issue within its particular area of responsibility with major implications for intergenerational wellbeing. The aim would be to explore current and expected future trends, assess the potential risks, consider intergenerational issues and implications, and review the options available for promoting and protecting long-term interests. Given that many major long-term policy issues traverse several subject-area boundaries, committees would need to coordinate their choice of topics to avoid unnecessary duplication – or collaborate in joint inquiries (as noted above). The mechanism for these inquiries would be a practice for select committees to adopt three-year plans to optimise their work over the term of a Parliament.

Responding to reports from Officers of Parliament

As discussed in chapter 5, while reports from Officers of Parliament are automatically referred to select committees, it is rare for committees to make their own recommendations to the Government in relation to these reports. Other issues were also identified in relation to how such reports are responded to. Hence, as suggested in chapter 5, there could be a statutory requirement for governments to respond to recommendations from an Officer of Parliament within a specified timeframe, so this response can be considered before the committee reports. Such a change would need to be worked through carefully with the Officers of Parliament to ensure they were satisfied that their roles and relationships would not be unduly affected by such a change.

Another possibility would be for the SOC to set expectations for how subject committees consider Officer of Parliament reports and encourage more frequent recommendations. Yet another option would be to amend Standing Order 396 to require select committees that receive reports from Officers of Parliament to report back to the House within a specified timeframe (e.g., six months).

Examining progress in relation to major government strategies

As highlighted in chapter 5, there is currently little systematic scrutiny by select committees of the implementation of major government strategies. To rectify this, the Standing Orders could be amended to require subject select committees to examine progress towards the achievement of major governmental strategies and long-term goals in their respective subject areas. Reviews of this nature could be undertaken at least once every parliamentary term.

Reviewing the long-term implications of government bills

A further option would be to encourage greater consideration of the long-term implications of government bills, as discussed in chapter 5. This objective could be pursued in various ways. One approach could be to explore with relevant central agencies whether regulatory impact analysis could encompass more explicitly the long-term outcomes and risks of legislative proposals, where applicable. This idea would be a matter for the Government to consider and not the House.

As also suggested in chapter 5, the Government could be requested to adjust the requirements for disclosure statements for legislation to include an indication of whether an analysis has been carried out of: (a) long-term issues and objectives that the legislation will address; and (b) the expected long-term outcomes of the legislation, and, if so, where that analysis is available. This could be achieved through a Cabinet decision to adjust the current requirements for disclosure statements. Ultimately, if the Legislation Bill, currently before the House, is passed, then provisions in Part 4 of that bill relating to the House's approval of additional disclosure requirements could be used for this purpose.

Short of commitment devices along these lines, select committees could ask their advisors to consider the long-term implications of bills in their initial briefings to committees. Again, the SOC could express an expectation for this to occur.

Terms of reference for inquiries

It was noted in chapter 5 that select committees were more likely to consider long-term matters as part of an inquiry where explicit reference is made to such matters in the terms of reference. Accordingly, it would be helpful for select committees to receive particular guidance, when drafting the terms of reference for an inquiry, on whether and how long-term matters should be included. The precise nature of such matters would, of course, depend on the nature of the inquiry.

Summary

Various means can be used to encourage a greater focus on long-term matters by select committees, not least the quality of long-term governance. This applies equally to their scrutiny of bills and reviews of the performance of departments and public agencies, and, ideally, the assessment of governance by the executive branch as a whole. The crucial feature of the proposals considered above is the implementation of particular commitment devices (e.g., procedural triggers). Such devices are designed to ensure that certain scrutiny activities, which might otherwise be overlooked or given a low priority, are undertaken. They cannot guarantee, of course, that such activities are conducted well or will produce positive outcomes. But at least they create the potential for beneficial results.

The main problem with these suggestions is that they would place extra burdens on committees, most of which are already fully stretched in terms of their responsibilities and workload. Without changes to the size of committees or their modus operandi, it would be hard for committees to accommodate any additional tasks.

Other changes to enhance the quality of parliamentary scrutiny

As noted, many interviewees pointed out that better parliamentary scrutiny of long-term governance basically depends on a stronger overall system of scrutiny. This includes improvements to each of the layers of parliamentary scrutiny discussed in chapter 5. Aside from the reform options already considered in this chapter, interviewees mentioned numerous ways to improve the quality of parliamentary scrutiny. In no order of importance, these focused on:

1. enhancing the efficiency and effectiveness of the select committee system
2. altering the way select committees scrutinise the Estimates and conduct annual reviews
3. improving the quality of advice and analytical resources available to select committees
4. enhancing the prospects of select committees examining important, yet potentially controversial, policy issues
5. encouraging durable multi-party agreements on major policy issues
6. instituting special debates on major issues, particularly when these have been the subject of a select committee inquiry.

Some of the proposed changes are considered briefly below. Matters relating to the quality of advice and analytical resources available to select committees are discussed in chapter 9.

Enhancing the efficiency and effectiveness of the select committee system

Interviewees offered many suggestions to improve the operations of the select committee system. Among these were the following:

1. consider amending Standing Order 201 to require that the chairpersons and deputy chairpersons of select committees are allocated across the parties in accordance with the principle of proportionality (i.e., based on the relative size of each parliamentary party), as for instance in the House of Commons in the United Kingdom
2. consider amending Standing Order 201 to require specified select committees to be chaired by a member of an Opposition party (e.g., the FEC and Governance and Administration Committee)
3. improve the training and development opportunities of select committee chairpersons
4. seek ways to ensure the workload of subject committees is more evenly balanced, both in terms of the relative workload of each committee and the flow of work across the parliamentary term
5. encourage select committees to undertake better forward planning of their work programmes at the beginning of each parliamentary term and on an annual basis, including provision for the conduct of inquiries
6. institute a formal review system to track progress in relation to select committee recommendations
7. encourage subject select committees to establish external reference groups of experts to advise them on major long-term policy issues in their sector
8. endorse the development by the Office of the Clerk of the House of Representatives of best practice templates for the conduct of inquiries by select committees
9. institute briefings to select committees (e.g., by government departments and non-governmental organisations) at the beginning of each parliamentary term on the 'big issues' in their specific areas of responsibility.

Altering the way select committees scrutinise the Estimates and conduct annual reviews

Interviewees offered several suggestions to improve the way select committees scrutinise the Estimates and conduct annual reviews. Among these were the following:

1. increase the time allocated for hearings and questioning during the examination of the Estimates
2. free up time for more in-depth examination of the performance of departments and agencies by moving in many cases to a triennial system of reviews, and adjusting the allocation of time for scrutiny according to the relative importance and size of a department and/or agency and the level of fiscal and other risks
3. amend the Standing Orders to require statements of strategic intentions to be referred to select committees for examination, possibly as part of the annual review process
4. conduct annual reviews based on sectors, with possible sector-wide reports addressing progress towards outcomes
5. for Estimates and annual reviews, explore joint committee consideration of broad, cross-sector programmes

6. improve the range and quality of performance information provided to select committees, both by departments and agencies, and the OAG, for instance via:
 - multi-year performance data to enable the analysis of important trends
 - standardised comparative data across agencies, where applicable
 - reports on progress towards meeting significant objectives
 - information on departmental and agency responses to concerns raised in previous years by the OAG and/or select committees
7. review questions sent to departments and agencies as part of the annual review process to ensure these include more questions about long-term issues, including strategies, plans, goals and targets, as well as progress towards achieving relevant outcomes
8. encourage ministers to make themselves available to appear before select committees during the annual review process to discuss progress towards long-term outcomes
9. require departments to report on their progress towards implementing the recommendations of select committees where these have been endorsed by the Government.

The manner in which government agencies are working to address complex issues, or planning for future challenges, or how alert they are to opportunities or risks, could easily form part of the annual review process, that is, the consideration of the 'performance and current operations' of agencies. It would be useful to develop a potential set of questions for committees to adopt, based on the criteria for assessing the quality of long-term governance (see chapter 3), to empower the scrutiny of agency performance in this area. Moreover, the OAG, when advising committees on annual reviews, could include advice about the extent to which agencies have demonstrated effective long-term governance during the year under review. Annual reviews could also be reconfigured to improve the connection between an agency's previously stated strategic intentions and their current operations. Such accountability would ultimately best be achieved through amendments to statutory reporting requirements, but nothing is preventing committees from proactively asking about such aspects of governance in the meantime.

Enhancing the prospects of select committees examining important, yet potentially controversial, policy issues

Several interviewees commented that select committees are often unable to reach agreement on conducting inquiries on important policy issues, including those with major long-term implications. This is because the issues in question are politically sensitive or controversial and/or because of the risk of information coming to light that may embarrass the current or previous government. As a result, the scrutiny activities of committees can be frustrated.

This conundrum goes to the heart of the structure and makeup of select committees, and their potential to be dominated by the executive in Westminster-type parliaments. There is no point imposing inquiry topics on select committees where the majority is unwilling to consider them effectively. However, a practice of developing three-year programmes, through which members could negotiate a set of priorities for a committee's forward-looking inquiry activities, would be constructive. Such an approach is desirable, if enduring understandings and solutions are to be reached.

Another possible way to address this problem, which was suggested by an interviewee, would be to introduce a member's ballot for select committee inquiries, akin to the ballot for member's bills. For instance, at the beginning of each parliamentary term or perhaps every year, the members of each subject select committee could be invited to place a proposal for a specific inquiry (potentially with draft terms of reference) into a ballot. Each committee would have its own ballot if the committee were unable to reach agreement on the topic of an inquiry. The interviewee considered that the threat of a controversial proposal being drawn from the ballot would provide an added incentive for the committee to agree on a suitable topic for an inquiry.

Encouraging durable multi-party agreements on major policy issues

In relation to improving the quality of long-term governance, a number of interviewees reflected on the challenges of reaching durable multi-party agreement on major policy issues, especially those of an intergenerational nature. Several suggestions were advanced. One was to provide greater support for the work of cross-party parliamentary groups. This option is briefly considered below.

Another suggestion (also noted in chapter 5) was to implement changes to parliamentary procedures designed to increase the incentives for governments to seek a cross-party consensus on major issues. In particular, a procedural trigger to recognise, and potentially reward, inclusive pre-legislative policy-making should be explored. A converse option would be to institute a rule under the Standing Orders that required a debate in the House in circumstances where the Government introduced legislation without consulting Opposition parties. This would prompt ministers to explain why there had been no consultation. Yet another suggestion was to place entrenchment provisions in more Acts. Such provisions would only be enacted if at least two-thirds or three-quarters of all MPs supported them. However, while entrenchment may be appropriate for constitutional or electoral matters, it is questionable whether the courts would uphold attempts by one Parliament to bind subsequent Parliaments in respect of other matters of public policy.²

Changes to encourage greater consideration of long-term matters by the House

Interviewees offered various suggestions for enhancing the consideration of long-term matters by the House (see also chapter 5). Several are briefly outlined below.

Prime Minister's statement

As noted in chapter 5, the Prime Minister makes a statement to the House on the first sitting day of each calendar year except when that day is an Opening of Parliament. Standing Order 354 could be amended to require the Prime Minister's statement to include information about long-term matters (e.g., the Government's strategies for addressing major long-term challenges). Additionally, Standing Order 354 could be amended so the statement is referred to the Governance and Administration Committee (or a Governance Committee) for consideration of these long-term aspects.

Oral questions on long-term matters

Chapter 5 noted that the current arrangements for oral questions in the House could be revised to provide for periodic, additional question sessions focusing on long-term matters. Potentially, this question session could be followed by a debate on an issue with significant long term implications.

Institute adjournment debates on major long-term issues

Plenary debates are important mechanisms for enabling Opposition parties to scrutinise the Government's performance, including the quality of long-term governance. One reform option would be to require additional debates on government reports that focus on long-term matters. Currently, Standing Order 336(5) requires a debate on the Treasury's long-term fiscal statement and investment statement, each of which occurs at four-yearly intervals. Other current or future documents could be added to this list, including periodic national risk assessments, stewardship reviews and so forth.

Another option would be to institute special debates on major issues, along the lines of adjournment debates in the House of Commons in the United Kingdom. The timing of these special debates could be stipulated in the Standing Orders, as occurring on a periodic basis, or left to the discretion of the Business Committee. While it is already within the gift of the Business Committee to arrange such debates, this does not happen often because there is no expectation that such debates will be held with any regularity.

² P A Joseph (2014) *Constitutional and Administrative Law in New Zealand* (4th edition). Wellington: Brookers Ltd, at [16.8.4] and [16.9.11].

Enhancing the engagement of parliamentarians on long-term issues

Aside from the options outlined thus far for amending the Standing Orders, there are other possible ways to enhance the quality of long-term governance and the parliamentary scrutiny of such governance. These include:

1. establishing a representative body similar to Scotland's Futures Forum (see chapter 6)
2. providing greater financial and administrative support for cross-party parliamentary committees, such as Globe-NZ³
3. strengthening the engagement of New Zealand parliamentarians with inter-parliamentary organisations such as the Commonwealth Parliamentary Association and International Parliamentary Union.

Futures Forum Aotearoa

As discussed in chapter 3, New Zealand has no Commission for the Future, no academic centre for future studies and little investment in foresight. One option would be to establish a *Futures Forum Aotearoa* along the lines of Scotland's Futures Forum. Such a forum could include MPs from across the House, together with leading representatives of major civil society organisations, the academic and research community, business, and trade unions. The forum's mandate would be to explore major long-term trends and issues, significant scientific and technological developments, and ways to enhance intergenerational wellbeing. As with Scotland's Futures Forum, a New Zealand equivalent would be supported by a small secretariat, and would host symposiums, roundtables, workshops and other public events. It could also commission reports and undertake foresight activities. But it would not conduct major inquiries. To operate effectively, such a forum would require cross-party support and be properly funded. As discussed in chapter 6, Scotland's Futures Forum achieves a great deal with relatively modest parliamentary funding, not least because of the effectiveness with which it has formed partnerships with respected organisations in civil society.

If such a forum were to be considered in New Zealand, detailed attention would need to be given to its structure, governance, terms of reference, the process of appointing members, and administrative support arrangements.

Cross-party parliamentary groups

Several interviewees highlighted that the New Zealand Parliament has many cross-party parliamentary groups and they often provide a safe space for members to discuss major issues and possible reforms. Such groups can increase MPs' understanding of the nature of a problem and how it might be tackled. They can also contribute to a greater measure of consensus on the best way forward.

At the moment, cross-party parliamentary groups do not receive much support in terms of public funding and administrative assistance from the Parliamentary Service. As a result, any significant investigative work that MPs might wish to undertake requires external funding. This can be difficult to organise and can generate complications for members, including potential conflicts of interest. Another issue is reaching agreement on who should convene the meetings of a proposed group. It was noted that some MPs are reluctant to participate in events that might be seen to be unduly party-political because of the person proposed as the convenor of the group. In some situations, having an independent convenor might help address this problem.

Interviewees offered several solutions. One option would be for the parliamentary agencies to establish a contestable fund for cross-party parliamentary groups to facilitate their activities. This could include funding for an independent convenor in situations where such an arrangement was deemed desirable. The available funding could be allocated in accordance with agreed criteria, such as the number of members involved, the number of parties represented and the nature of the planned activities. Related to this, funding could be allocated for administrative and advisory support.

³ See, for instance, the review of the activities of Globe-NZ by Dr Kennedy Graham: Cross-Party Collaboration on Climate Policy: The experience of GLOBE-NZ. *Policy Quarterly* 14(1): 37–43. <https://ojs.victoria.ac.nz/pq/article/view/4759>

Chapter 9: Strengthening advice to Parliament on long-term governance

Introduction

Robust parliamentary scrutiny of the quality of long-term governance requires reliable and authoritative evidence, independent and impartial policy analysis, and informed advice across the full range of policy issues confronting the nation. The current arrangements for providing independent advice to Parliament fall short in several important respects. This chapter explores how these issues might be addressed.

The importance of evidence and independent advice

Legislatures in democratic political systems rely heavily on information, research findings, policy analysis and advice from a wide range of sources to undertake their various functions, not least their oversight responsibilities (see chapter 6). Such sources include government departments and agencies, research institutions, think tanks, businesses, civil society organisations and international institutions, such as the Organisation for Economic Development and Co-operation and the World Bank.

For high-quality scrutiny of the executive, including matters relating to long-term governance, legislatures require, among other things:

- the best available evidence, including the most reliable, authoritative and up-to-date scientific evidence
- independent and impartial advice – that is, advice from sources independent of the executive
- comprehensive advice – that is, advice covering the full range of policy issues confronting the nation.

Moreover, scrutinising the quality of long-term governance requires specific kinds of evidence and policy analysis. For instance, members of Parliament (MPs) need: access to rigorous and impartial assessments of governmental reports on national risks and significant creeping policy issues; evaluations of important societal trends and developments; assessments of the likely implications of major scientific discoveries and new – potentially disruptive – technologies; and thoroughgoing analyses of the extent to which governments are preparing for the future, including by mitigating and managing significant risks. Such analyses serve multiple purposes:

- improving MPs' knowledge and understanding
- contributing to more informed debate in the House of Representatives (the House)
- assisting Opposition parties in formulating their party manifestos
- influencing the priorities and activities of select committees (e.g., in relation to the nature of the topics chosen for inquiries and the kinds of questions to ask ministers, officials, expert witnesses, and submitters)
- informing the deliberations, findings and recommendations of select committees.

Chapter 5 outlined how the House obtains evidence and advice in order to conduct its oversight responsibilities. It also highlighted the contribution that the five agencies comprising the legislative branch make to the House's scrutiny functions. Feedback on the strengths and weaknesses of existing arrangements was secured through interviews with current and former MPs, departmental officials, staff in the Office of the Auditor-General (OAG), staff of the Parliamentary Commissioner for the Environment (PCE), and various informed observers (see chapter 2). As noted in chapter 7, concerns raised by interviewees included that:

- MPs depend heavily on information and advice from government departments and other public bodies
- limited use is made of independent (i.e., non-departmental) advisors and external reference groups to assist select committees with their inquiries

- unlike many government departments, Parliament lacks a Chief Science Advisor (or equivalent)
- staff with advanced scientific training are relatively scarce among those employed by the five agencies that comprise the legislative branch (including the Parliamentary Library)
- much of the information supplied to select committees for the purposes of scrutinising the Estimates and the conduct of annual reviews tends to focus on the activities, outputs and financial performance of public entities rather than on the broader results or outcomes achieved
- limited information is available on long-term national risks and opportunities, including assessments of the implications of new technologies
- MPs (especially those in the smaller parliamentary parties) have limited time to undertake their own independent investigations.

If the House is to conduct more systematic, detailed and in-depth scrutiny of governmental performance, and especially the quality of long-term governance, it almost certainly needs additional independent analytical support. Indeed, given the small size of the House (and hence the limited pool of MPs available to serve on select committees), together with the multiple demands facing MPs and the constant pressures of time, parliamentary oversight is unlikely to improve significantly without enhanced support services.

Options for enhancing Parliament's access to evidence and independent advice

Many different, yet complementary, approaches are available to strengthen the existing advisory and research services for MPs, parliamentary parties and select committees. Some of the available options were canvassed in the report of the Seventh Triennial Appropriations Review Committee, which was undertaken by Dame Annette King, Eric Roy and Bill Moran and published in August 2018.¹ *Towards a world-leading democracy* recommended significant reforms, including:

- changes to the funding of support services for MPs, both in Parliament and in their electorates
- a guaranteed minimum level of funding for all parliamentary parties
- additional funding for the Leader of the Opposition to enable departmental officials to be seconded to the Leader's office
- extra funding for the Parliamentary Library to enable it to expand and enhance its role of providing information and analysis for MPs.

Among other recommendations, the report proposed that the Parliamentary Service seek additional funding to improve its information, communications and technology services, and that the Clerk of the House and the Parliamentary Service jointly request extra funding for a strategy to enhance public engagement, including by providing more and better information to the public about the nature of the parliamentary process. Further, the review group recommended that the Office of the Clerk of the House of Representatives (OOC) should receive funding to provide MPs "with development opportunities to support them to act as effective committee members, to build understanding of the importance of the role of the chair, and to give potential chairs the skills to run committees well".² It also proposed establishing within the OOC a unit to undertake policy analysis and provide costings to political parties for their proposed policy reforms. The last of these suggestions has parallels with the proposed independent fiscal institution (IFI) (see chapter 4).

In the meantime, if the House's scrutiny functions are to be enhanced, MPs and select committees could receive greater analytical and research support and have their capability expanded in several additional ways. These fall into four main categories:

1. expanding the use of independent experts and external reference groups to assist select committees with their review and oversight activities

¹ Seventh Triennial Appropriations Review Committee (2018) *Towards a world-leading democracy: Report of the Seventh Triennial Appropriations Review Committee*. Wellington.

² *Ibid*, p 60.

2. strengthening the advisory and analytical support for select committees from the OOC and the Officers of Parliament, especially the OAG and PCE
3. strengthening Parliament's access to independent, high-quality scientific advice. This could include:
 - a. appointing a Chief Parliamentary Science Advisor, possibly supported by a small Office for Science and Technology similar to the Parliamentary Office of Science and Technology (POST) in the United Kingdom Parliament (see chapter 6), and/or
 - b. creating stronger formal links with the Royal Society of New Zealand Te Apārangi (RSNZ) and the wider research community³
4. drawing more extensively on the expertise and experience of former MPs.

Each of these options is discussed briefly below.

Expanding the use of independent experts and external reference groups

For many years, select committees have drawn on the services of independent experts to assist them with their review of legislation and the conduct of inquiries, especially in relation to relatively technical subjects such as taxation legislation. Support of this nature is organised and funded via the OOC. Unlike in some jurisdictions, each select committee does not have a discretionary budget for such services. Instead, the OOC provides funding as and when required. For various reasons, most select committees do not make extensive use of independent experts. However, the Finance and Expenditure Committee generally has access to independent tax expertise, while the Regulations Review Committee enjoys ongoing legal advice from the OOC. In part, the modest use of independent experts reflects the limited number of major inquiries undertaken. Several MPs interviewed for this project were unaware of the funding available via the OOC for independent experts.

In the interests of better parliamentary scrutiny, including that of a long-term nature, select committees could be encouraged by the Standing Orders Committee to make greater use of independent experts. This could include relevant people from the academic and research community, think tanks (such as the New Zealand Institute for Economic Research), independent public bodies (such as the Law Commission and the Productivity Commission) and the RSNZ. In many cases, such expertise is likely to be provided without the need for financial compensation.

Another option would be for each subject select committee to establish an external reference group whenever it conducts annual reviews or undertakes a substantive inquiry. They could include people with relevant expertise from the research community, the private sector and the voluntary sector, along with former senior public servants. Such groups could assist in a variety of ways, including by suggesting specific issues that should be examined as part of the inquiry, reviewing and commenting on submissions, preparing and/or commenting on briefing papers, drawing attention to relevant research evidence and peer reviewing the committee's draft report(s). This would supplement and complement advice provided by staff of the OAG, PCE and OOC.

Strengthening the advisory and analytical services provided by the agencies of the legislative branch

In some overseas legislatures, many select committees have secretariats that include several technical experts and researchers, together with administrative staff and report writers. If select committees in New Zealand were to be better resourced, additional funding for the OOC would be needed. In addition, there is scope for committees to make greater use of the research and information services provided by the Parliamentary Library.

³ B Jeffares, J Boston, J Gerrard, S Hendy and W Larner (2019) Science advice in New Zealand: opportunities for development. *Policy Quarterly* 15(2): 62–71.

Moreover, the Officers of Parliament could provide additional advisory and analytical support for select committees in various ways. One option would be to temporarily second staff from one or more of these organisations to assist with inquiries, including by tendering advice and drafting reports. Potentially, this may require providing extra funding to one or more of the Officers of Parliament.

As noted in chapter 4, the OAG is currently reviewing the nature and scope of its support for Parliament. Additionally, if the proposed IFI is established, whether as an Officer of Parliament or in some other institutional form, it would have the potential to assist select committees with their examination of the Estimates, their annual reviews and other scrutiny activities.

Strengthening Parliament's access to independent, high-quality scientific advice

As noted earlier, robust parliamentary scrutiny depends heavily on the availability of authoritative evidence, together with rigorous, independent analysis of policy issues and options. In many areas of public policy, and especially in relation to creeping policy problems and other major issues with significant long-term implications, the provision of robust and balanced scientific evidence is critical. As it stands, few MPs have postgraduate qualifications in scientific disciplines. Equally, the New Zealand Parliament lacks an independent source of scientific advice akin to POST in the United Kingdom (see chapter 6).

Over recent years, the Government has established a network of close to a dozen Chief Science Advisors in major departments.⁴ These advisors are appointed on merit and have the status of public servants. Since 2009 the Prime Minister has also been served by a Chief Science Advisor, although in this case the person is a political appointee rather than a public servant. The first such advisor, Sir Peter Gluckman, completed his term in 2018; the current appointee is Professor Juliet Gerrard.

Significantly, Parliament lacks a Chief Science Advisor or other dedicated scientific advice. Of course, select committees can, and do, seek advice on important scientific matters from the RSNZ, the wider research community, and technical experts in government departments and agencies. Nevertheless, scientists employed by public agencies, whether as Chief Science Advisors or in other capacities, are not always free to speak publicly, especially on issues that are politically controversial. Scientists in Crown research institutes are also more constrained in their contributions to public debate than university researchers. For such reasons, the functions and positive impact of POST indicate that improving Parliament's access to independent scientific expertise would have merit.

This goal could be achieved in several ways. Perhaps the most straightforward option would be for Parliament to appoint its own Chief Science Advisor. Such an appointment would be made with cross-party agreement. It could be for a fixed term (e.g., five to seven years) but not necessarily full time. The person appointed could be based in a parliamentary agency, and would be available to advise MPs and select committees as and when required. Of course, even a senior and distinguished appointee is likely to have detailed knowledge in only a limited number of sub-disciplines. To assist MPs and select committees, therefore, a Chief Parliamentary Science Advisor would need to have strong links with the RSNZ, the PCE and the wider research community, and draw heavily on their expertise. The cost of establishing such a position is likely to be relatively modest, all the more so if the position were part time.

A more elaborate option would be to create an office similar to POST. Such an office could be located within a parliamentary agency. It could be headed by a Chief Parliamentary Science Advisor. As in the United Kingdom, such an office would undertake a range of analytical and research activities, such as:

- publishing reports and short briefings on important scientific and technical issues
- undertaking foresight exercises
- assisting select committees with their inquiries (including advice on inquiry topics, specific questions requiring examination, preparing briefings, suggesting questions for committees to ask to witnesses, and peer reviewing draft reports)
- providing MPs with advice on a range of scientific and technical matters.

⁴ Ibid.

As with POST, such an office would require strong links with researchers in universities, Crown research institutes, government departments and agencies, and major scientific academies. As in the United Kingdom, a New Zealand POST could be funded to enable it to operate a system of short-term fellowships for researchers and PhD students. Such fellowships could be administered, on its behalf, by an independent organisation, such as the RSNZ.

Some, however, have raised objections to creating a substantive POST-type entity. First, it would be relatively costly. For instance, its staff, including temporary research fellows, of around 10–12 full-time equivalents, would be likely to cost about \$2 million per annum. Second, it is not clear that such an entity is needed. Note that the New Zealand Parliament is less than a tenth of the size of the House of Commons and House of Lords, and it conducts few in-depth inquiries relative to many of its counterparts internationally. A risk, therefore, is that MPs would have a relatively low demand for the analyses and other services such an entity could provide. Third, New Zealand is a small democracy with only limited expertise in many areas of scientific research. Given this context, the question arises as to how our policy-making system, within both the executive and legislative branches, can be designed to make the best use of the available scientific expertise. Existing institutional arrangements for providing high-quality science advice to policy-makers are only modestly funded and often thinly stretched. For instance, the Prime Minister's Chief Science Advisor, Professor Juliet Gerrard, works part time and is supported by only a few staff. Similarly, the RSNZ has about three staff in its policy unit. In such a situation, providing Parliament with a substantial resource of scientific advice might be difficult to justify, especially if such services were not used in full.

With such considerations in mind, the best approach might be to start with the smaller-scale option of creating a position of Chief Parliamentary Science Advisor. Over time, if MPs found such a role to be valuable, resources could be expanded and additional capability sought. In the meantime, a good case could be made for strengthening the capacity of the RSNZ to assist Parliament by providing independent scientific expertise, including proper institutional support for a Chief Parliamentary Science Advisor, if such a position were to be created.

Drawing more extensively on the expertise and experience of former MPs

Some interviewees observed that former MPs typically have considerable experience of the policy-making process and often in-depth knowledge of particular policy issues. Several argued that it would be desirable for Parliament to make better use of such people, particularly in the absence of an upper house and the constraints (especially of time) within which select committees operate.

Various options were suggested. One was to create, from time to time, cross-party committees of former MPs to examine, and make recommendations for addressing, major long-term policy issues. This could include conducting specific foresight exercises and national risk assessments. A variant on this option would be to include in such committees both former MPs and other people with relevant expertise, possibly chaired by an independent person of high status, such as a former senior judge. Yet another option is to appoint former MPs to serve as advisors to select committees on particular issues.

Note that the services of former MPs are already used occasionally to provide advice to Parliament. A recent example is the report of the Triennial Appropriations Review Committee mentioned earlier in this chapter.

Conceptually, the logic for Parliament to draw more extensively on the wealth of expertise and experience of former MPs is hard to fault. Practically and politically, however, there are likely to be problems. First, many former MPs secure full-time employment and are thus unavailable for roles of the kind suggested. Second, securing political agreement on the membership of cross-party committees of former MPs may be difficult. Third, issues are likely to arise over the topics that such committees might examine, their chairing arrangements, their terms of reference, their modus operandi and powers, and the status and likely influence of their recommendations. Nevertheless, it would certainly be worth exploring the options further, and perhaps experimenting from time to time to test of what might be feasible.

Conclusion

As noted earlier, the report of the Triennial Appropriations Review Committee recommended significant changes to improve the support services for MPs. These include a guaranteed minimum level of funding for all parliamentary parties and extra funding for the Parliamentary Library to expand its provision of information and analysis for MPs. The Committee's recommendations merit serious attention. But other changes would also be desirable. In particular, consideration should be given to:

1. expanding the use of independent experts and external reference groups by subject select committees to assist them with their scrutiny functions
2. enhancing the support provided by the OCC, OAG and PCE to select committees, including the OAG's provision of a broader range of non-financial information and advice on the performance of public agencies, together with a stronger forward-looking focus
3. appointing a Chief Parliamentary Science Advisor, and developing stronger links between Parliament and the RSNZ and the wider research community
4. exploring additional ways to draw on the expertise and experience of former MPs to assist with parliamentary scrutiny, especially in relation to major long-term policy issues.

It is acknowledged that such suggestions all entail extra public funding. But robust parliamentary oversight does not come cheap. The additional expenditure required is likely to be very modest when compared with the enormous costs of mediocre, let alone poor, long-term stewardship of the nation's resources.

PART 4: BROADER REFORM OPTIONS AND CONCLUSIONS



Chapter 10: Wider policy and constitutional reforms

The previous two chapters have focused on reforming parliamentary structures and processes, and enhancing the range and quality of advice available to members of Parliament (MPs) in undertaking their scrutiny responsibilities. A core goal has been to identify ways to improve parliamentary scrutiny of long-term governance and thereby provide stronger incentives for governments to safeguard the interests of future generations.

This chapter considers a broader range of reforms. While some are partly designed to enhance parliamentary scrutiny of long-term matters, others go beyond this particular goal. The first part of the chapter explores possible changes to existing policy frameworks, while the second part discusses several widely canvassed constitutional reforms. Each case has implications for the role and functioning of Parliament.

Policy reforms

Governments have many ways to change existing policy and regulatory frameworks to better safeguard citizens' long-term interests. The discussion below looks briefly at four particular reforms:

1. establishing new institutions with specific mandates, among other things, to protect future-oriented interests
2. enacting legislation to enhance the quality of long-term reporting and performance management
3. strengthening the quality of foresight within the executive branch
4. requiring all proposals for legislative reform to include assessments of their consistency with principles of intergenerational fairness and/or the goal of sustainable development.

New institutions with specific mandates, among other things, to protect future-oriented interests

As discussed in chapter 3, New Zealand has various institutions that have as part of their mandate a responsibility to be forward-looking, assess long-term risks and serve as an advocate for future-oriented interests. The Parliamentary Commissioner for the Environment (PCE) is perhaps the best example. But others include the Retirement Commissioner (who heads the Commission for Financial Capability), the Productivity Commission and – in a sense – the Children's Commissioner. The Climate Change Commission, which is to be established under the Climate Change Response (Zero Carbon) Amendment Bill, would also have a well-defined future-focused mission. The development of a comprehensive network of departmental science advisors over recent years provides another vehicle for ensuring that robust scientific evidence – including the likely long-term impacts of government interventions (or the lack thereof) – inform New Zealand's systems of advice-giving and policy-making.

In terms of better safeguarding future-oriented interests, many institutional options are available. These include:

- strengthening existing institutions with mandates that include addressing long-term issues (e.g., through additional resourcing or enhanced statutory provisions)
- changing the statutory form of current institutions, especially those with future-oriented mandates, to bolster their independence (e.g., turning a Crown entity into an Officer of Parliament)
- creating new institutions to address long-term issues for which existing institutions lack a clear or formal mandate.

In considering these options, careful attention must be given to the relevant principles of organisational design. These include a proper alignment of form and function and avoiding unnecessary duplication of effort. Regarding matters of institutional choice, the State Services Commission has developed helpful guidance.¹

In terms of new institutional arrangements, the proposed independent fiscal institution (IFI) (see chapter 4) has the potential to contribute to more in-depth policy analysis and public debate on important intergenerational issues, particularly those with fiscal implications. Also, if the IFI were established as an Officer of Parliament, it would enjoy a high level of independence and add to the resources currently available to the House of Representatives (the House). This could be of particular benefit to the Finance and Expenditure Committee or any dedicated review-type committee that might be established to undertake oversight activities and in-depth inquiries. Hence, the nature of the proposed IFI – including its mandate, governance, institutional design and composition – is highly relevant to this report and the subject of parliamentary scrutiny.

Having said this, the remit of the IFI is likely to be focused primarily, if not exclusively, on fiscal issues rather than a wider canvas, such as sustainable development, sustainable management, national resilience or intergenerational wellbeing. This means the work programme of the IFI would be partly influenced by how broadly it chose to interpret its mandate, including the concept of ‘fiscal’. On the one hand, most policy issues, whether environmental, social or cultural, have fiscal implications (e.g., they have the potential to impact, positively or negatively, at some stage in the future on government expenditure and/or revenue). From this perspective, a remit to address fiscal matters poses few constraints on the kinds of issues, or the timeframes of such issues, that the IFI might consider relevant. On the other hand, the IFI may choose to concentrate more narrowly on issues with large, direct or relatively immediate fiscal implications. In short, the nature, scope and temporal focus of the work undertaken by the IFI would depend not only on its formal mandate but how it chose to interpret ‘fiscal’, together with the interests and competencies of its leadership and staff.

As discussed in chapter 6, some jurisdictions have sought to provide additional protection to citizens’ long-term interests by establishing new institutions with future-focused mandates. This includes institutions that offer independent advice to governments and/or parliaments on intergenerational issues, such as measures to enhance sustainable development, decarbonisation and intergenerational wellbeing. Internationally, many different institutional models are available, as outlined in chapter 6 and appendices 3, 4 and 5.²

Currently, New Zealand has no equivalent body to the Welsh Future Generations Commissioner or the Hungarian Ombudsman for Future Generations. Against this, the PCE undertakes a range of functions that overlap with those of the Welsh Commissioner, albeit with a specific focus on environmental issues. New Zealand has also experimented in the past with the creation of independent bodies to advise governments on medium-to-long term issues, including the Planning Council (1976–91) (which had a medium-term focus) and the Commission for the Future (1976–83). The fact that neither body survived for long serves as a cautionary tale. Moreover, with the proposed creation of the IFI, together with the wide brief of the Productivity Commission, it is doubtful whether there is a strong case for establishing yet another institution at this juncture.

Nevertheless, if New Zealand were to enact legislation similar to the Well-being of Future Generations (Wales) Act 2015, which imposed a duty on the Government and (most) public bodies to ‘promote sustainable development’ and protect the interests of future generations, then there might well be an argument for creating a body to oversee the implementation of this legislation. As in Wales, such a body could advise the Government, Parliament and public bodies on how to fulfil their legislative responsibilities and monitor their performance. The broader question, then, is whether a Welsh-type legislative framework would be desirable. As it stands, New Zealand’s policy and regulatory frameworks already contain provisions similar to those in Wales, and various proposed legislative changes will increase the degree of congruence (see chapter 4). For instance, the ‘four wellbeings’ are in the process of being reincorporated into the Local

¹ See <http://www.ssc.govt.nz/sites/all/files/mog-supp-guidance-design-choices.pdf>

² See, for instance, I González-Ricoy & A Gosseries (eds) (2016) *Institutions for future generations*. Oxford: Oxford University Press.

Government Act 2002, thereby restoring the previous requirement for territorial authorities and regional councils to promote “the social, economic, environmental, and cultural well-being of their communities, taking a sustainable development approach” (i.e., as contained in s 3(d) of the Local Government Act, as amended in 2002). Further, the current government is keen to embed its new approach to wellbeing, most likely through changes to the Public Finance Act 1989 and State Sector Act 1988 (or new legislation). It will be easier to assess whether an additional institution, perhaps in the form of an Officer of Parliament, might be desirable once the Government’s intentions in relation to its wellbeing framework and the precise mandate and governance of the IFI have been clarified.

Legislative initiatives to enhance the quality of long-term reporting

Various options are available to improve current reporting frameworks and, in particular, give more attention to long-term outcomes and related considerations.³ Forthcoming amendments to the Public Finance Act may well place a stronger emphasis on policy outcomes (no doubt within a broad wellbeing framework), as well as instituting more robust requirements for medium-term strategies and intentions, risk management, financial planning and regulatory stewardship. Similarly, the Climate Change Response (Zero Carbon) Amendment Bill will require the Climate Change Commission to prepare periodic climate change risk assessments and the Government to prepare periodic national adaptation plans. Necessarily, the time horizon of these assessments and plans will be lengthy.

Additionally, legislation could be enacted requiring governments to publish periodically one or more of the following documents:

1. *Social Report* – reviewing recent social outcomes, trends and issues, broadly similar in nature to the requirements of the Environmental Reporting Act 2015
2. *Sustainable Development Report* – assessing the implementation of the SDGs in New Zealand and subsequent international agreements of a similar nature
3. *National Risk Assessment* – including analyses of ways to mitigate and manage the identified risks and enhance resilience
4. *Stewardship Report* – prepared by the State Services Commissioner, addressing the performance of the public service
5. *Report on the Future* – prepared by government departments on behalf of the Prime Minister, addressing major intergenerational policy issues, assessing the policy implications of major long-term trends, and outlining the Government’s proposed long-term goals and strategies.

The precise purpose, scope, contents and periodicity of each report would need careful consideration and delineation. It might be objected, of course, that it would be both unnecessary and unduly burdensome to require the regular publication of an additional five documents, each with a longer-term or intertemporal focus. But there is a distinctive and plausible rationale for each of the suggested reports, and each one would be substantively different in purpose and coverage. For instance, some would focus on how well the Government is preparing for the future and managing major risks, while others would concentrate on assessing recent policy outcomes, current trends and likely future challenges. However, as discussed in chapter 4, if reports of the kind suggested were to be made mandatory, it would be important for their findings to receive adequate parliamentary scrutiny and public debate. This is likely to require changes to the Standing Orders, together with specific legal obligations for independent public bodies (such as the Office of the Auditor-General, PCE and IFI) to comment on various aspects of each report and/or help Parliament to undertake its oversight role.

Initiatives to strengthen foresight

As highlighted in chapter 3, New Zealand’s institutional arrangements for foresight, including the assessment of major trends, risks and technological developments, are relatively weak. This applies to the executive, the legislature and the research community. Currently, there is no dedicated foresight unit in a central agency, such as the Department of the Prime Minister and Cabinet (DPMC), and little investment by

³ See, for instance, J Boston (2017) *Safeguarding the future: Governing in an uncertain world*. Wellington: Bridget Williams Books.

government departments and agencies in foresight activities. This stands in sharp contrast to the pattern in many other democracies, including smaller jurisdictions such as Finland and Singapore.

One possible solution would be to create a dedicated foresight unit in the DPMC or another central agency to provide leadership on foresight, and oversee and coordinate foresight activities across the public sector. Such a unit could help with the production of periodic National Risk Assessment Reports and Government Reports on the Future (assuming such reports were to form part of a wider programme of reform). Another option would be to establish a 'functional lead' on foresight within the public service alongside the current 'functional leads' on information and communication technology, government procurement and government property. The two options are not mutually exclusive. Indeed, any functional lead on foresight would need support from a team of competent officials and external experts, if the role were to be undertaken in an efficient and effective manner.

Legislation and intergenerational fairness

Chapter 8 noted the possibility of requiring disclosure statements to include an analysis of the long-term implications of government bills. Such a proposal could be taken a step further. Under section 7 of the New Zealand Bill of Rights Act 1990, the Attorney-General is required to report to the House in circumstances where a bill appears to be inconsistent with any of the rights and freedoms contained in the Bill of Rights. One possibility would be to amend the Standing Orders to require ministers, when introducing legislation, to include an assessment of whether the proposed bill is consistent with well-established principles of intergenerational fairness and/or the principle of sustainable development, as enunciated, for instance, in the Well-being of Future Generations (Wales) Act 2015. This, of course, would beg the question of what such principles are, whether they should be embedded in legislation, how they might be interpreted and how they ought to be applied. Reaching a durable political consensus on such matters is likely to take time and effort, but is not beyond the bounds of possibilities.

Summary

The preceding discussion has briefly considered four types of changes designed to improve the quality of long-term governance in New Zealand:

1. establishing new institutions with specific mandates, among other things, to protect future-oriented interests
2. enacting legislation to enhance the quality of long-term reporting and performance management
3. strengthening the quality of foresight within the executive branch
4. requiring all proposals for legislative reform to include assessments of their consistency with principles of intergenerational fairness and/or the goal of sustainable development.

All four types of changes are potentially feasible, both politically and technically. All four would enhance the information and advice available to Parliament on long-term matters and, thereby, its capacity for, and opportunity to undertake, long-term scrutiny and oversight. Each reform would involve only a modest ongoing fiscal cost. At the same time, each would have the potential (through better advice and decisions) to contribute to lower net fiscal costs over the long term.

The desirability and effectiveness of such changes, however, will depend on their specific design features and the quality of implementation. Importantly, too, changes of this nature will not significantly affect the political *incentives* for parliamentarians to undertake scrutiny activities. Their impact on how long-term interests are prioritised within the wider political system is also likely to be modest. If changes of the kind discussed above were to be implemented, Parliament would need to consider how best to take advantage of them in order to maximise the possible gains. This may well require subsequent amendments to the Standing Orders.

Constitutional and quasi-constitutional reforms

Over the years many proposals have been advanced to reform and improve New Zealand's constitutional arrangements. Of particular relevance to this report – and its focus on protecting long-term interests – are the following:

1. enacting a written, codified and entrenched constitution with specific provisions to protect long-term interests
2. amending the New Zealand Bill of Rights Act to include specific provisions to protect long-term interests
3. extending the term of Parliament to a maximum of four years, coupled with restrictions on the calling of early elections
4. increasing the size of the House.

Written constitution with provisions to protect long-term interests

New Zealand is currently one of only three democracies in the world without a formal written constitution.⁴ Hence, there is no supreme law permitting the judiciary to strike down legislation enacted by Parliament. Equally, New Zealand is among only 16 countries that do not provide their citizens with a constitutional right to a healthy environment or an equivalent provision.⁵ Significantly, too, the New Zealand Bill of Rights Act includes no such provision; nor does it explicitly protect the rights of future generations.

Sir Geoffrey Palmer and Andrew Butler, among others, have argued in recent years that New Zealand's constitution is not 'fit for purpose' and favour the enactment of a written, codified and entrenched constitution.⁶ Such a constitution would have the status of supreme law. In effect, it would mean that Parliament is no longer sovereign.

A constitution of the kind proposed could include specific provisions to safeguard future-oriented interests. Among other things, this could take the form of an explicit right to an 'ecologically healthy environment' (or wording of this kind) or a duty on governments to ensure the responsible and sustainable use of natural resources and protect all species. In their proposed constitution for New Zealand, Palmer and Butler suggest the inclusion of an environmental right of the following kind:

- (1) Everyone has the right—
 - (a) to an environment that is not harmful to their health or wellbeing; and
 - (b) to have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures that—
 - (i) prevent pollution and ecological degradation:
 - (ii) promote conservation and biodiversity:
 - (iii) secure ecologically sustainable development and the use of natural resources in a manner that is managed to maintain the equilibrium of the environment:
 - (iv) includes kaitiakitanga, which is the exercise of guardianship by the tangata whenua of an area in accordance with tikanga Māori in relation to natural and physical resources.⁷

⁴ See, for instance, C Morris, J Boston & P Butler (eds) (2011) *Reconstituting the constitution*, especially chapter 25. Heidelberg: Springer; G Palmer & A Butler (2016) *A constitution for Aotearoa New Zealand*. Wellington: Victoria University Press; G Palmer & A Butler (2018) *Towards democratic renewal: Ideas for constitutional change in New Zealand*. Wellington: Victoria University Press. Note that Sir Geoffrey Palmer has also proposed various other changes designed to enhance the quality of governance, including the process of law-making in New Zealand. See, for instance, G Palmer (2014) The Harkness Henry Lecture: Law-making in New Zealand: Is there a better way? *Waikato Law Review* 22: 1–40; G Palmer (2015) The law reform enterprise: Evaluating the past and charting the future. *Law Quarterly Review* 131: 402–423.

⁵ J Boston & T Stuart (2015) Protecting the rights of future generations: Are constitutional mechanisms an answer? *Policy Quarterly* 11(2): 60–71.

⁶ Palmer & Butler, *A constitution for Aotearoa New Zealand*, above n 4; Palmer and Butler, *Towards democratic renewal*, above n 4.

⁷ Palmer & Butler, *Towards Democratic Renewal*, *ibid*, p 304. Such a provision could be worded in various possible ways. See, for instance, J Boston (2017) *Governing for the future: Designing democratic institutions for a better tomorrow*. West Yorkshire: Emerald Publishing Limited, pp 208–210.

Palmer and Butler also suggest that, to strengthen the enforcement of such rights, the PCE should be able to conduct litigation to safeguard them and intervene in litigation where such rights are in question.

Plainly, implementing an entrenched constitution with the status of supreme law would constitute a fundamental reform. Currently, there appears to be relatively little political appetite for such reform and no concerted public demand. Moreover, the international evidence suggests that the various provisions in national constitutions designed to protect long-term interests have not been particularly effective.⁸ In some cases, this is because the relevant provisions are not justiciable (e.g., because they are located in the Preamble to the relevant constitutional document) or their wording is too vague and open-ended to provide meaningful protection. In other cases, the limited effectiveness of the various provisions reflects the cautious approach adopted by the judiciary, with judges preferring to leave the task of balancing conflicting intertemporal interests to the democratic process.

Amending the New Zealand Bill of Rights Act to include specific provisions to protect long term interests

Even if there were greater political and public support for enacting an entrenched constitution, realistically, any such reform would take many years to implement. A rigorous process of public consultation and deliberation would be required, coupled no doubt with a binding referendum on the proposed constitution. In the meantime, it would be readily possible, at least technically, to amend the New Zealand Bill of Rights Act to include a provision (or provisions) relating to the protection of long-term interests. One such option would be a right to an 'ecologically healthy environment'. Of course, the wording of any such provision would need proper scrutiny and adequate parliamentary support. It would not, however, need public endorsement via a referendum.

Yet, realistically, even a carefully crafted provision is unlikely to have a major impact on the extent to which long-term interests are protected. For one thing, much would depend on how such a provision was interpreted and applied by the courts. Relevant cases may not arise for many years. For another, the New Zealand Bill of Rights Act is not entrenched; it is an ordinary statute. Hence, subsequent Parliaments would be at liberty to amend it or enact legislation that limited the effectiveness of any new provisions.

Extending the term of Parliament

By international standards, New Zealand's parliamentary term is short (see chapter 3). Currently, of 190 lower houses and unicameral national legislatures, only nine have a term of three years or less, 74 have a four-year term and 103 have a five-year term.⁹ Other things being equal, a short time horizon is likely to incentivise governments to focus on those matters that can most readily be tackled within the available timeframe.¹⁰

Equally important, New Zealand's current three-year term is not fixed. Hence, as long as a Prime Minister retains the confidence of the House, he or she can call an early election; there are no other constitutional restrictions. Against this, political considerations generally favour governments running their full term. It is no accident, therefore, that early elections have been rare.

For decades, numerous politicians, civic leaders and academics have supported extending the term of Parliament to four years. It has been argued that a modest extension of this nature would enhance the capacity for governments to undertake thoroughgoing policy reforms in a more careful, considered, evidence-informed manner. It would also provide more time to address major, long-term issues and seek cross-party agreement on possible solutions. In terms of parliamentary scrutiny, it would enable select committees to undertake more thorough and detailed investigations of important issues and governmental performance. Therefore, while it would not overcome the problem of political short-termism, it would increase the prospects of better intertemporal decision-making and more rigorous oversight.

⁸ Boston, *ibid*, pp 201–216.

⁹ Inter-Parliamentary Union (2019) *Compare data on parliaments*. https://data.ipu.org/compare?field=country%3A%3Afield_structure_of_parliament#map

¹⁰ See Report of the Royal Commission on the Electoral System (1986) *Towards a Better Democracy*. Wellington: Government Printer, pp 155–166.

Additionally, if the parliamentary term were extended, even by a year, it would almost certainly reduce the turnover of MPs, thereby enhancing the length of their tenure. This is likely to expand the depth of experience and expertise of members. Not surprisingly, perhaps, almost all those interviewed who commented on the parliamentary term supported an increase, typically to four years.

If the parliamentary term were to be extended, it would also make sense to place additional constraints on the ability of a Prime Minister to call an early election. Otherwise, there could be no guarantee that such a reform would actually achieve its objective. This would probably mean embracing some kind of fixed or semi-fixed term. Several different international models could be considered.¹¹

Regardless of the merits of a longer term, together with a fixed or semi-fixed term, any such reforms would require public endorsement via a referendum. The main political challenge, therefore, would be to convince the public of the desirability of such changes. Two referenda have already been held in New Zealand during the past half century or so (1967 and 1990) on increasing the parliamentary term; both were heavily defeated, with only about a third of voters supporting a change. Holding a further referendum without a reasonable chance of success would have little merit.

Increasing the size of the House of Representatives

The House, with 120 MPs, is relatively small by international standards. Currently, there are 71 constituency MPs (64 in general seats and seven in Māori seats) and 49 list MPs. As noted earlier in this report, the small number of MPs reduces Parliament's capacity to undertake detailed scrutiny and oversight activities. Most democracies with a broadly comparable population to New Zealand (i.e., close to 5 million) have a larger legislature (e.g., Denmark, Finland, Ireland and Norway).

Significantly, too, the size of the House has not been increased since the introduction of proportional representation in 1996 even though the population has risen during the ensuing years from about 3.7 million to over 4.9 million.¹² In effect, therefore, each MP is now representing close to a third more citizens than their equivalent almost a quarter of a century ago.¹³ The previous first-past-the-post system had no cap on the total number of MPs, thereby enabling the size of the House to increase if the population of the North Island rose relative to that of the South Island. Under the process instituted since 1996, the number of South Island seats is fixed at 16. The number of North Island seats is adjusted periodically according to the relative size of the two islands' populations. But this does not affect the total number of MPs. With population growth in the North Island continuing to outpace that in the South Island, the number of list MPs has been reduced – from 55 in 1996 to 49 at present. A further reduction is likely for the 2020 general election (following a redrawing of electoral boundaries in 2019 based on the results of the 2018 Census). If current population trends continue over the next few decades, the number of list MPs will continue to decline. At some point, this process will make it increasingly difficult to keep faith with the principle of proportionality (i.e., ensuring a close relationship between the proportion of votes received by political parties and their proportion of seats in the House, subject to the 5 percent threshold and the one-seat threshold).

There is room for disagreement about what might constitute an 'optimal' size for a nation's parliament. Nevertheless, given the important tasks that legislatures must undertake in parliamentary systems like New Zealand – including providing the members of the political executive, representing constituents, enacting legislation and scrutinising the Government's performance – a good case can be made that the House is too small. Interestingly, the Royal Commission on the Electoral System in the mid-1980s, which among other things reviewed the size of the House, concluded that a Parliament with 140 MPs would be 'ideal'.¹⁴ At the same time, it recognised that increasing the number of MPs from 97 (at the time of the Royal Commission) to 140 was unlikely to find favour with the public. Accordingly, it compromised and recommended a House of 120 MPs.¹⁵ This recommendation was eventually accepted by parliamentarians and endorsed in a binding

¹¹ See J Boston (1998) *Governing under proportional representation*. Wellington: Institute for Policy Studies, pp 114–117.

¹² See Statistics New Zealand: http://archive.stats.govt.nz/tools_and_services/population_clock.aspx

¹³ See Report of the Seventh Triennial Appropriations Review Committee (2018) *Towards a World-Leading Democracy*. Wellington, p 6.

¹⁴ See Report of the Royal Commission on the Electoral System (1986) *Towards a Better Democracy*, Wellington, p 127.

¹⁵ *Ibid*, p 129.

referendum in 1993. Of those interviewed for this project who commented on the size of Parliament, most supported a larger House. But there were exceptions: one current MP favoured a smaller House.

From a constitutional perspective, if the number of MPs in New Zealand were to be increased, a further referendum would be required. Given the overwhelming public support (81 percent) in a citizens initiated referendum in 1999 for reducing the number of MPs from 120 to 100, it is unlikely the public would endorse an increase in the size of Parliament – unless, perhaps, it were part of a much broader set of constitutional reforms (e.g., the enactment of a codified and entrenched constitution). Accordingly, this would not appear to be a realistic option.

Summary

The preceding discussion has outlined four possible constitutional reforms each of which has the potential to enhance the protection of long-term interests and/or improve the capacity of Parliament to hold the executive to account for its performance, including the quality of its long-term governance. The easiest of these reforms to implement would be to amend the New Zealand Bill of Rights Act: such a change would not require public endorsement via a referendum. Yet, as noted above, while an amendment of this nature is technically – and perhaps politically – feasible, whether the proposed amendment would significantly affect policy decisions and outcomes is more questionable.

The feasibility of the other three reforms appears to be limited in the current political environment. While each of the suggested changes has been supported by a number of current and/or former politicians, they have yet to receive the full endorsement of a major political party. And without such backing they will be difficult to advance. Even with such support, successful enactment would ultimately require majority backing in a binding, government-mandated referendum. For there to be any hope of securing such support, an extensive process of public consultation, deliberation and education would be essential.

Finally, many other ways to enhance the quality of long-term governance have been advanced over the years, both in New Zealand and elsewhere.¹⁶ These include:

- creating new kinds of representative institutions, such as randomly selected assemblies
- relying more on deliberative decision-making processes, such as citizens' juries
- lowering the voting age or establishing youth quotas
- creating new endowment funds and common heritage funds.

A proper exploration of such options is beyond the scope of this report. But, given the range, magnitude and seriousness of the risks currently facing humanity, creative and innovative thinking is needed about how democratic societies can best fulfil their duty to safeguard the long-term interests of their citizens for generations to come.

¹⁶ For a useful summary, see González-Ricoy & Gosseries, *Institutions for future generations*, above n 2.

Chapter 11: Conclusions

This report has investigated how governments in New Zealand are held accountable by the House of Representatives (the House) for the quality of their long-term governance, and how the incentives and capacity for rigorous and systematic parliamentary scrutiny of such governance might be improved.

The research conducted for this project was predicated on at least two assumptions. First, democratic political systems exhibit an inherent short-term bias or presentist bias. This bias affects both the executive and legislative branches of government and contributes to weak parliamentary scrutiny of long-term matters. Second, there is scope for improvement: this applies both to the quality of long-term governance and the rigour of parliamentary scrutiny. Based on the research undertaken for this project, these assumptions remain largely uncontested.

In concluding this report, the following messages deserve emphasis.

The quality of long-term governance matters ...

New Zealand faces formidable long-term challenges – economic, social, environmental and technological. How well these are tackled by current and future governments will have profound implications for the wellbeing of the nation's citizens. Failing to invest adequately, for instance, in good-quality public infrastructure will impose additional financial burdens on future generations. Likewise, poor protection of unique landscapes and ecosystems will contribute to significant and potentially irreversible losses (e.g., of endangered species and rare habitats). Accordingly, prudent stewardship of the nation's resources is critical. This will entail the exercise of foresight, sensible long-term planning and judicious prioritisation of public funds. In short, as highlighted in chapter 3, it requires sound anticipatory governance. Yet governing well for the future is demanding. Governments face difficult trade-offs, multiple risks and much uncertainty. If anything, such challenges are likely to increase as the 21st century progresses.

Long-term interests are often at risk from short-term political pressures ...

Democracies generate strong political pressures for governments to favour short-term interests over long-term interests and, hence, current consumption over future consumption. Because of this presentist bias, there is a continuing risk of policy-makers short-changing the future. Protecting long-term interests thus requires concerted effort and constant vigilance. To help safeguard future-oriented interests, governments of different political persuasions have implemented numerous substantive and procedural commitment devices – as outlined in chapter 3. Such devices are designed to enhance the quality of long-term governance by making it harder for policy-makers to ignore or disregard the interests of future generations. Put simply, they bring the long term into sharper political focus. But, as discussed in this report, New Zealand's existing institutional mechanisms, practices and policy outcomes are far from ideal. They need improvement. Almost certainly, this applies to our Parliament.

Parliament plays a vital role in holding governments to account for their performance, including their long-term governance ...

At the heart of our parliamentary system of government are the twin conventions of collective and individual ministerial responsibility: governments must command the support of the majority of members of Parliament (MPs) to retain office; and individual ministers are answerable in the House for their decisions and all that happens within their portfolio responsibilities. The task of holding governments and individual ministers to account is achieved through multiple layers of parliamentary scrutiny, as highlighted in chapter 5. The design, strength and rigour of these layers matter: they affect the incentives in the political system for good performance and thus influence the behaviour of those holding public office and the quality of their governance. Long-term governance is no exception.

Parliamentary scrutiny of long-term governance in New Zealand is not systematic or robust ...

Interviewees, including parliamentarians and those who advise and serve them, generally considered that the current framework for, and quality of, parliamentary scrutiny in New Zealand is unsatisfactory. This assessment applies both to the scrutiny of governance in general and long-term governance in particular. Overall, parliamentary scrutiny was regarded as ad hoc, reactive and backward-looking. Ideally, it should be more systematic, proactive and forward-looking.

Interviewees identified many reasons for the current weaknesses, as outlined in earlier chapters. The most fundamental constraints on rigorous scrutiny are political rather than technical. Even in a multi-party context under proportional representation, political power lies predominantly with the executive branch. Understandably, too, backbench government MPs are reluctant to embarrass their ministerial colleagues. Executive dominance of the legislature in New Zealand is compounded by the small size of the House and the absence of a second chamber. It is further exacerbated by the competing demands on select committees and their relatively modest use of independent analysis and advice.

Several interviewees emphasised that only significant constitutional changes would alter the underlying structure of political power in New Zealand's governmental system. Such changes, however, would undoubtedly be controversial and difficult to implement. For such reasons, most interviewees favoured evolutionary rather than radical solutions.

Fortunately, there is scope under existing constitutional arrangements to change the incentives within the parliamentary system to improve scrutiny overall and the oversight of long-term governance in particular. Currently, some isolated examples exist of the effective examination of long-term issues by select committees, and there have been more frequent instances when members have raised long-term matters in the course of proceedings. The challenge is to provide the best conditions, support and incentives for MPs to engage in effective scrutiny of long-term governance.

Finding a suitable package of options requires a clear understanding of the areas needing improvement. As highlighted, especially in chapters 3 and 5, these include:

- the relative lack of procedural triggers to generate systematic scrutiny of long-term governance, including governmental performance in relation to long-term goals and targets
- the absence of a shared understanding about, and agreed framework for, assessing the quality of long-term governance
- a statute book that lacks a coherent framework of commitment devices and accountability mechanisms for long-term governance; MPs therefore are not routinely provided with information about the expected long-term outcomes of policies, bills and spending proposals
- a tendency for select committee engagement in long-term matters to be readily overwhelmed by other business and truncated by tight reporting deadlines
- a tendency for select committees to underuse the expertise and insight of Officers of Parliament and the funding available for independent specialist advisors (for example, information of a long-term nature that is provided for select committee consideration, such as long-term forecasts, projections and trends, tends not to be actively or independently tested)
- a lack of strong expectations of parliamentary scrutiny of governments to influence their long-term governance behaviour
- a political culture that is not proactively future-focused and that invests little in rigorous foresight.

Many options are available to improve parliamentary scrutiny of long-term governance ...

With these areas for improvement in mind, previous chapters have identified a variety of possible reforms. Of course, there is no silver bullet. In all likelihood, the best approach will entail a package of measures. In developing such a package, it will be important to consider the current government's proposed reforms in the areas of public management and public finance, as summarised in chapter 4. This is because some of the proposed reforms, including those related to the reporting of performance, may impact on the capacity for, and actual conduct of, parliamentary scrutiny.

The options for reform, as summarised in table 7.1 and discussed more fully in chapters 8, 9 and 10, fall into five main categories:

1. changes to the Standing Orders designed to enhance the capacity of, and incentives for, Parliament to scrutinise governmental performance, particularly with respect to long-term governance
2. improvements to the structures and systems of advice for Parliament, especially a greater use of independent expert advice
3. changes designed to enhance the engagement of parliamentarians in long-term issues (e.g., via new advisory and scrutiny mechanisms involving MPs)
4. changes to current policy frameworks, including institutional, reporting and procedural arrangements
5. reforms of a constitutional or quasi-constitutional nature.

Specific recommendations have not been offered. Equally, no effort has been made to identify where a consensus might be found among policy-makers or how it might be constructed. Rather, the objective has been more limited: to clarify the nature of the problem, survey possible solutions, and contribute to a more informed debate about the way forward.

Some of the suggested changes entail extra financial costs. While the proposals outlined in this report have not been costed, the additional costs are likely to be modest, especially when compared to the public funds currently allocated to Parliament and its respective agencies. Moreover, the costs should not be considered in isolation from the expected benefits. Better parliamentary scrutiny of long-term governance has the potential to contribute to large savings in future fiscal costs, along with significant social and environmental benefits. Equally important, a healthy and vibrant democracy requires proper investment in high-quality political institutions and robust policy processes.

A learning culture is imperative

Whatever the impact of this report on the conduct of parliamentary scrutiny or the quality of long-term governance in New Zealand, the need to assess the effectiveness of our political institutions and seek improvement will remain. The quest for good democratic governance, after all, is enduring. New challenges and opportunities will always arise. The democratic journey is ongoing; the final destination is never reached.

For such reasons, a vigorous learning culture that values foresight, insight and oversight is vital within all our political institutions, not least our Parliament. Fostering such a culture will require, among other things, ongoing support for rigorous research and evaluation of our existing accountability systems and structures. Equally vital will be a readiness to explore and undertake periodic analyses of international trends, models and approaches, seeking wherever possible to learn from overseas successes and mistakes and apply such lessons appropriately within these shores. Our current and future citizens deserve nothing less.

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Appendix 1: Policy development – parliamentary scrutiny of long-term governance and stewardship

Introduction

The Office of the Clerk of the House of Representatives (OOC) and Victoria University's Institute of Governance and Policy Studies (IGPS) are forming a partnership to develop policy options for parliamentary scrutiny of long-term governance and stewardship.

Objective

The objective is to enhance Parliament's capacity to hold the Government to account for the quality of its long-term governance and stewardship.

Concepts

In this context, parliamentary examination of long-term governance can include (for example) scrutiny of the extent to which:

- the interests of future generations are being adequately safeguarded
- government departments and agencies are fulfilling their stewardship responsibilities under the State Sector Act 1988
- Parliament incorporates anticipatory activities within its own procedures.

For this purpose, 'long term' can mean as little as 3–10 years, or centuries, depending on the nature of the issue.

Deliverables

This policy development process with IGPS will deliver:

- an initial document for the Clerk to present to the Standing Orders Committee, setting out policy options for mechanisms for the House to hold the Government to account in respect of its long-term planning
- considered research to inform further advice to the Committee as required
- one or more outputs that can be submitted to a journal for publication purposes.

Related outcomes

It is expected the process will also result in:

- an established relationship between OOC and IGPS that will provide a platform for further collaborative work in future
- linkages between OOC and public service agencies that lead long-term planning activities.

Methodology

To achieve this, the following work is envisaged.

- A group workshop with OOC staff and IGPS nominees to develop a common understanding of relevant parliamentary practice in this area, as well as the statutory and public service context, and central concepts such as long-term governance and stewardship.

- Research and analysis of:
 - the ways in which and the extent to which Parliament currently holds the Executive to account for the quality of its long-term governance
 - the ways in which Parliament is currently monitoring the stewardship function of government departments and agencies
 - current long-term planning initiatives in the public service, and how these flow through into policy and legislative development
 - the practices of, and lessons from, legislatures in other jurisdictions
 - the challenges of undertaking these functions and possible criteria for measuring the quality of both governance and scrutiny for the long term
 - the broad options for procedural development or reform, and their respective strengths and weaknesses.
- Synthesis of material for analysis and identification of possible policy options.
- Discussions, workshops and iterative work to prepare deliverable documents and outputs.

Information gathering

Methods to gather information for these purposes include:

- relevant literature review, including online materials
- queries through both academic and parliamentary channels
- discussion and written follow up with people in the public service who are involved in strategic management and stewardship roles
- discussion and written follow up with relevant Officers of Parliament.

Resources

- OOC's involvement in this partnership will be led by the Parliamentary Law and Practice (PLP) team.
- OOC expects that its contribution to this initiative will be conducted within existing baseline resources of the PLP team.
- OOC will meet the cost of logistical aspects of the work, as approved in advance by the Operational Manager (PLP), for example, the reasonable costs of holding workshops and obtaining information from online sources.
- PLP and other relevant staff will be available for this work, as agreed with IGPS.
- PLP will seek assistance from the Parliamentary Library for some of this work.

Timeframes

- A workshop will be held in the first half of June 2018.
- A draft of the initial document with policy options will be available for consultation by the end of November 2018.
- The initial document with policy options will be available for the Clerk to provide to the Speaker and subsequently to the Standing Orders Committee by the end of March 2019.

Appendix 2: Interviews and meetings

1. Bill Moran, Chair of Sport New Zealand, former Chief Operating Officer of the New Zealand Treasury, Wellington, 23 May 2018
2. Rt Hon Simon Upton, Parliamentary Commissioner for the Environment, Wellington, 20 June 2018
3. Dr Kennedy Graham, former Green MP, Wellington, 21 June 2018
4. Roundtable, around 20 individuals drawn from academia and the public service, Victoria University of Wellington, Wellington, 22 June 2018
5. Dr David Eng, Senior Analyst, and Luke Maguire, Team Leader, Fiscal and State Sector Management, the New Zealand Treasury, Wellington, 10 July 2018
6. Dr Malcolm Menzies, former Chief Executive of Families Commission (Superu), Wellington, 19 July 2018
7. Derek Gill, Acting Deputy Chief Executive & Head of Public Good, New Zealand Institute of Economic Research, Wellington, 20 July 2018
8. Dr Mike Reid, Principal Policy Advisor, Local Government New Zealand, Wellington, 31 July 2018
9. John Ryan, Controller and Auditor-General, Gareth Ellis, Assistant Auditor-General, Parliamentary Group, Bill Robertson, Sector Manager, Parliamentary Group, and others Wellington, 31 July 2018
10. Andrew Kibblewhite, Chief Executive of Ministry of Justice, former Chief Executive of the Department of the Prime Minister and Cabinet, Wellington, 1 August 2018
11. Grant Fletcher, Director, Strategy, Inland Revenue Department (IRD), Wellington, 11 September 2018
12. Dr David Eng, Senior Analyst, and others, the New Zealand Treasury, Wellington, 21 September 2018
13. Marcus Jackson, Director, Research and Development, Office of the Auditor-General (OAG), Wellington, 2 October 2018
14. Andrea Reeves, Assistant Auditor-General, Local Government, OAG, Wellington, 3 October 2018
15. Simon Duncan, Senior Analyst, Macroeconomic and Fiscal Policy Team, David Eng and Neil Kidd, Senior Analyst, the New Zealand Treasury, Wellington, 11 October 2018
16. Gareth Ellis, Bill Robertson, Henry Broughton, Sector Manager, Parliamentary Group, and Helen Colebrook, Sector Manager, Parliamentary Group, OAG, Wellington, 16 October 2018
17. Hon Chris Finlayson, National MP, Wellington, 8 November 2018
18. Hon Dr Sir Michael Cullen, former Labour MP, Wellington, 9 November 2018
19. Cathy Swanson, Senior Strategist, IRD, Wellington, 20 November 2018
20. Hon Amy Adams, National MP, Wellington, 29 November 2018
21. Aron Valinder, Centre for Effective Altruism, Oxford, 30 November 2018
22. Michael Wood, Labour MP, Wellington, 6 December 2018
23. Lord David Willetts, Executive Chair, and Laura Gardiner, Director of Research, Resolution Foundation, London, 13 December 2018
24. Stephen Farrington, Chief of Staff, and Katy Simpson, Senior Economist, Office for Budget Responsibility, London, 19 December 2018
25. Alex Brocklehurst, Acting Private Secretary to Senior Deputy Speaker, and former Director of Library Services and Head of Research Services, House of Lords, London, 19 December 2018
26. Professor Meg Russell, Professor of British and Comparative Politics, Director of the Constitution Unit, School of Public Policy, UCL, London, 20 December 2018
27. Professor Robert Hazell, Professor of Government and the Constitution, former Director of the Constitution Unit, UCL, London, 20 December 2018
28. Benoit Guerin, Senior Researcher, Dr Alice Lilly, Senior Researcher, and Marcus Shephard, Senior Researcher, The Institute for Government, London, 20 December 2018
29. Sophie Howe, Welsh Commissioner for Future Generations, Cardiff, 7 January 2019
30. Marie Bousseau-Navarro, Director of Policy, Legislation and Innovation, Office of the Welsh Commissioner for Future Generations, together with Rebecca Brown, Jacob Ellis, Heledd Morgan, Christian Servini, and other members of the Commissioner's staff, Cardiff, 7 January 2019

31. Elisabeth Jones, Head of Legal Services, Welsh National Assembly, Cardiff, 7 January 2019
32. Professor Rachel Ashworth, Dean and Head of School, Cardiff Business School, Cardiff University; Professor Calvin Jones, Deputy Dean, Cardiff Business School, Cardiff University; Keith Bush, former Head of Legal Services, Welsh National Assembly, Nicola Mead-Batten, Partner, Capital Law, Cardiff, 8 January 2019
33. Professor Roger Awan-Scully, Head of Politics and International Relations and Professor of Political Science, Cardiff University, Cardiff, 8 January 2019
34. Andrew Charles, Head of Sustainable Development Branch, Welsh Government, Cardiff, 9 January 2019
35. Dr Chris Tyler, Deputy Head of School and Director of Public Policy, School of Science, Technology, Engineering and Public Policy, UCL, London, 10 January 2019
36. Marcus Jackson, Henry Broughton and Bill Robertson, OAG, Wellington, 25 January 2019
37. Hon Scott Simpson, National MP, Opposition spokesperson for environment, and for workplace relations and safety, New Zealand Parliament, Wellington, 5 February 2019
38. Tim Barnett, former Labour MP, Chief Executive of FinCap, Wellington, 13 February 2019
39. Hugo Vitalis, State Services Commission, Wellington, 13 February 2019
40. Poto Williams, Labour MP, Wellington, 14 February 2019
41. Kevin Hague, former Green MP, Chief Executive of Forest and Bird, Wellington, 15 February 2019
42. Dr Kennedy Graham, former Green MP, Wellington, 19 February 2019
43. Hannah Cameron, State Services Commission, Wellington, 20 February 2019
44. Stuart Smith, National MP, Wellington, 20 February 2019
45. Members of the System Design and Strategy Team, Public Sector Management Directorate, and other officials, the New Zealand Treasury, Wellington, 21 February 2019
46. Clayton Mitchell, New Zealand First MP, Wellington, 21 February 2019
47. Ben Jeffares, Director, Office of the Prime Minister's Chief Science Advisor, Wellington, 22 February 2019
48. Rt Hon Sir Geoffrey Palmer, former Prime Minister, Wellington, 26 February 2019
49. Chlöe Swarbrick, Green MP, Wellington, 27 February 2019
50. Mark Patterson, New Zealand First MP, Wellington, 5 March 2019
51. Louisa Wall, Labour MP, Wellington, 13 March 2019
52. Hon Louise Upston, National MP, Wellington, 13 March 2019
53. Tim Barnett, former Labour MP, Wellington, 21 March 2019
54. Gareth Hughes, Green MP, Wellington, 25 March 2019
55. Dr Rob Salmon, Director of the Labour Leader's Office, Wellington, 16 April 2019
56. Hon Grant Robertson, Minister of Finance, 17 April 2019
57. Dr Duncan Webb, Labour MP, Wellington, 22 May 2019

Appendix 3: Parliamentary Library research request response: Parliamentary scrutiny of government future thinking in Scandinavia, Ireland and the United Kingdom

Date:	5 June 2018
Prepared by:	Pleasance Purser, Research Analyst
Your request:	Examples of scrutiny of government future thinking in overseas parliaments

I have looked for examples of parliamentary scrutiny of government long-term thinking or planning for the future in the United Kingdom, Scandinavia, Ireland, Canada, Australia and some Australian states. I have found examples from Finland, Ireland, Norway, Sweden, the United Kingdom and Wales. The future thinking under scrutiny in each of these examples varies in breadth and time-scale, but in each case there is, or is potential for, parliamentary scrutiny of the Government's intentions and/or actions, and in some cases parliamentary approval is also required.

Below is a brief summary of each of the six examples, with a summary also in table form. Further information on each example follows. I have also included brief information on initiatives taken by the Norwegian and Scottish parliaments towards thinking about the future.

Finland – Since 1993, following a decision by Parliament, the Prime Minister's Office has presented a four-yearly Report on the Future to Parliament. The report looks at key strategic issues over a 10- to 20-year period. Parliament debates the report, refers it to the Committee for the Future for consideration and debates and votes on the Committee's report.

Ireland – In 2018 the Government launched Project Ireland 2040. One of the Project's core elements is the National Planning Framework, a high level strategic plan for shaping Ireland's future growth and development to 2040. Statutory footing for the framework is to be provided by a bill that is currently before Parliament. The bill includes a requirement for the Government to revise or replace the framework every six years. The draft revised or replacement framework must be submitted to Parliament.

Norway – Since 2004 the Ministry of Finance has presented a 'perspective report' to Parliament that sets out the future challenges for Norway's economy and public finances for the next 50 years, and the Government's strategy for meeting them. The report is considered by Parliament's Finance Committee, and Parliament then debates and votes on the Committee's report.

Sweden – In 1999 Parliament approved the Government's proposal for an environmental goals system to solve Sweden's major environmental problems over a generation. Parliament must approve the goals, including any changes. The Government reports on the goals annually to Parliament in the budget proposal. The relevant expenditure area is considered by the Environment and Agriculture Committee, and Parliament then debates and votes on the Committee's report. The Climate Act requires the Government to present to Parliament an annual climate report in the budget proposal, and a four-yearly climate plan.

United Kingdom – The Climate Change Act 2008 requires the Government to lay five-yearly Carbon Budget and Climate Change Act (Credit Limit) Orders before Parliament for its approval. The Orders are considered by committees and voted on in both Houses, and the Carbon Budget Order is debated in the House of Lords. The Act also places other requirements on the Government to report to Parliament, including presenting an annual statement of UK emissions, and five-yearly climate change impact reports and programmes for adaptation to climate change.

Wales – The Well-being of Future Generations (Wales) Act 2015 requires the Government to present to Parliament national indicators, including any revisions, for measuring progress towards the well-being goals. Other reporting requirements include an annual progress report and a four-yearly assessment by the Future Generations Commissioner for Wales.

Summary table of parliamentary scrutiny of government future thinking

	Government future thinking	Time period	Formal basis	Government communications to Parliament	Parliamentary scrutiny activity
Finland	Report on the Future Since 1993	10–20 years	Parliamentary decision	Four-yearly Report on the Future	Plenary debate Consideration by the Committee for the Future, and other committees Plenary debate and vote on Committee's report
Ireland	National Planning Framework Since 2018	To 2040	Government decision Planning and Development (Amendment) Bill 2016	Six-yearly draft of new or revised National Planning Framework	
Norway	Economic perspective report Since 2004	50 years	Evolved from earlier plans	Four-yearly economic perspective report	Consideration by the Finance Committee Plenary debate and vote on Committee's report
Sweden	Environmental goals system Since 1999	Generation	Riksdag approval of government proposals	Proposals for new, and changes to, environmental quality goals Annual report, contained in budget proposal Two-yearly in-depth report on two aspects of system, contained in Spring Fiscal Policy Bill Four-yearly report on whole system	Consideration by committee Plenary debate and vote on committee's report Consideration by committee Plenary debate and vote on committee's report
	Since 2018	To 2045	Climate Act Riksdag resolutions	Annual climate report in budget proposal Four-yearly climate action plan	

	Government future thinking	Time period	Formal basis	Government communications to Parliament	Parliamentary scrutiny activity
United Kingdom	Climate goal Since 2008	To 2050	Climate Change Act 2008	Five-yearly Carbon Budget Order, and Climate Change Act (Credit Limit) Order Annual statement of UK emissions Final statement for each carbon budget period Final statement for 2050 Five-yearly report on impact of climate change Five-yearly programme for adaptation to climate change	Debated in House of Commons committee House of Commons plenary vote Considered by House of Lords committee House of Lords plenary debate on Carbon Budget Order and votes on both Orders
Wales	Well-being goals Since 2015	Future generations	Well-being of Future Generations (Wales) Act 2015	National indicators and any revisions Annual report on progress towards objectives Results of 4-yearly examination of public bodies' objectives Four-yearly future generations report	

Finland

The Committee for the Future, established in 1993, is a permanent special committee of Parliament. The Committee's mission is to generate dialogue with the Government on major future problems and opportunities. Its main function is to prepare Parliament's response to the Government's Report on the Future, submitted to Parliament once in each four-year parliamentary term by the Prime Minister's Office. It also comments, where relevant, on other government proposals, for example, the budget, the Government's report on the national energy and climate strategy to 2030, and undertakes inquiries on its own initiative.¹

Each of the Government's Reports on the Future is devoted to key strategic issues relating to policy decisions to be taken in a 10- to 20-year period. The aim is to encourage broad debate in society. The Government presented part 1 of its Report on the Future for the current parliamentary term to Parliament in June 2017. The Committee for the Future was among those who contributed to the report's preparation.

The 2017 report deals with the transformation of work. It seeks answers to broad questions focusing on how work will be done in the future, and generates information on what the change of work means and how Finland can successfully adapt to the change and seize the new opportunities it brings. Part 1 examines the future of work, factors that have an impact on it and what the changes mean for Finland.

¹ 40/1999 Riksdagens arbetsordning, s.7 <http://www.finlex.fi/sv/laki/ajantasa/2000/20000040>; Committee for the Future <https://www.eduskunta.fi/EN/lakiensaaminen/valiokunnat/tulevaisuusvaliokunta/Pages/default.aspx>

The second part, which will be presented to Parliament in 2018, aims to create a view on the solutions and policy measures needed so that Finland and Finnish labour will do well and succeed in the future.²

The report's first part was debated in a plenary session in June 2017 and referred to the Committee for the Future for consideration, as well as to the Education and Culture, Social Affairs and Health, and Employment and Equality Committees for comment. The Committee for the Future's report, which included the comments from the other three committees, was debated in a plenary session and approved in February 2018.³

The Committee for the Future heard evidence from officials, academics and representatives of some organisations, and received written submissions from a range of organisations. In addition, it accepted a report from students at a Helsinki senior secondary school, and some members held an open meeting with invited school children at the Helsinki Book Fair. The Committee's report recommended that Parliament require the Government to take a number of actions relating to the 2017 Report on the Future, and as well that it should require the Government to repeat the two-part approach in future reports on the future to promote dialogue and participation.⁴

In November 2015, the Prime Minister's Office published a report on how to enhance the futures dialogue between the Government and Parliament. The report proposed a new systemic model for foresight work. It said that reform was needed because policy decision-making had become increasingly complex and interdependent. As well as gathering information, the foresight work should provide quicker and more flexible responses to new challenges. One of the report's authors said that the present way of working, where the Government presents a report for the future, to which Parliament responds, once every four years is too slow. There should also be more opportunity for the general public to participate in the preparation of the Report for the Future.⁵

Ireland

In February 2018, the Government launched Project Ireland 2040, an overarching policy initiative to make Ireland a better country for all. The Project emphasises social outcomes and values ahead of economic targets and prioritises the wellbeing of all the people of Ireland.⁶ Project Ireland 2040 includes two core elements: a National Planning Framework and a €116 billion national development plan that sets out a strategic vision for Ireland's investment in public infrastructure over the next decade.⁷

The National Planning Framework is the Government's high level strategic plan for shaping the future growth and development of Ireland out to 2040. It is a framework to guide public and private investment, to create and promote opportunities for Ireland's people, and to protect and enhance the environment. The National Planning Framework is intended to deliver 10 national strategic outcomes, for example, a strong economy supported by enterprise, innovation and skills; transition to a low carbon and climate resilient society; access to quality childcare, education and health services.⁸ The process of developing the framework included, in addition to wide consultation, a debate in the Dáil (House of Representatives) and

² Government report on the future <http://vnk.fi/en/government-report-on-the-future>; Mikko Dufva et al., Kohti jaettava ymmärrystä työn tulevaisuudesta, Valtioneuvoston selvitys- ja tutkimustoiminta, 2017 http://tietokayttoon.fi/documents/10616/3866814/33_kohti-jaettava-ymmarrysta-tyon-tulevaisuudesta.pdf/61a65884-3d8e-46ae-adce-dba625067df5?version=1.0; Statsrådets framtidsredogörelse, del. 1, Bred förståelse av förändringarna i arbetslivet, SRR 6/2017 rd https://www.eduskunta.fi/SV/vaski/JulkaisuMetatieto/Documents/SRR_6+2017.pdf.

³ SRR 6/2017 rd, Statsrådets framtidsredogörelse, del. 1, Bred förståelse av förändringarna i arbetslivet, Statsrådets redogörelse förfarande https://www.eduskunta.fi/SV/vaski/KasittelytiedotValtiopaivaasia/Sidor/SRR_6+2017.aspx.

⁴ Framtidsutskottet, Statsrådets framtidsredogörelse, del. 1, Bred förståelse av förändringarna i arbetslivet, Betänkande FrUB 22017 rd – SRR 6/2017 rd, 13 December 2017 https://www.eduskunta.fi/SV/vaski/Mietinto/Documents/FrUB_2+2017.pdf.

⁵ Mikko Duvfa ja Toni Ahlqvist, Miten edistää hallituksen ja eduskannan välistä tulevaisuusdialogia?, Valtioneuvoston selvitys- ja tutkimustoiminta, 2015.

⁶ Project Ireland 2040 <http://www.gov.ie/en/project-ireland-2040>.

⁷ Project Ireland 2040: statements, Dáil Éireann Debate, 20 February 2018 <https://www.oireachtas.ie/en/debates/debate/dail/2018-02-20/35/>.

⁸ National Planning Framework: Project Ireland 2040, Department of Housing, Planning and Local Government [https://s3-eu-west-1.amazonaws.com/govieassets/18/8582547-Project%20Ireland%202014%20NPF%20\(7mb\).pdf](https://s3-eu-west-1.amazonaws.com/govieassets/18/8582547-Project%20Ireland%202014%20NPF%20(7mb).pdf).

consideration by a joint committee of the Oireachtas (Parliament) of the draft framework document.⁹

The Planning and Development (Amendment) Bill 2016, passed by the Dáil in January 2018 and now before the Senate, will, when passed, provide a statutory footing for the National Planning Framework. Among other things, the bill requires the Government, every six years after the framework's publication, either to revise the framework or replace it with a new one. The Government must submit a draft of the revised or new framework, together with an Environmental Report and Appropriate Assessment Report, for the approval of each House of the Oireachtas, before it is published. In preparing or revising the framework, the Government must have regard to any resolution or report made by the Oireachtas or a committee during the period of consideration with regard to the framework.¹⁰

The Joint Committee on Housing, Planning and Local Government considered Project Ireland 2040 in a meeting in March 2018 at which departmental officials were present. During the discussion, one member described as a weakness the fact that the framework cannot be varied within a six-year period.¹¹

Norway

Once in each four-year parliamentary term, the Ministry of Finance presents to the Storting (Parliament) a 'perspective report', Perspektivmeldingen, setting out the future challenges facing Norway, and the Government's strategy for meeting them. The report discusses significant challenges and options for Norway's economy and public finances for the next 50 years.¹² The first such report was published in 2004, having evolved from earlier four-year plans that gradually became more long term and visionary.¹³

The most recent perspective report was presented to the Storting in 2017. Issues covered included migration, inequality and quality of life, and green growth for a sustainable society.¹⁴ The report was referred to the Finance Committee, whose consideration of it included an open hearing with expert witnesses. The Committee's report included all the parties' views on the perspective report, and a recommendation that the Storting should adopt it. Following a debate, the Storting approved the Committee's recommendation.¹⁵

At a workshop held by the Board of Technology in 2014, the perspective report was described as Norway's most important document with regard to thinking about the future. There was criticism, however, that its economic focus made it too narrow and limited debate.¹⁶ In a background paper, the Board of Technology commented that the Finance Committee's report and the Storting debate on the perspective report provide an insight into how the various parties have reacted to and positioned themselves on it. Referring specifically to the 2013 perspective report, the paper said that its political reception in the Storting was not noticeably different from the administrative treatment and ritualised coalition battles that characterised the reception of other government reports.¹⁷

⁹ Project Ireland 2040: statements, Dáil Éireann Debate, 20 February 2018.

¹⁰ Planning and Development (Amendment) Bill 2016 <https://www.oireachtas.ie/en/bills/bill/2016/1/>; Planning and Development (Amendment) Bill 2016, as passed by Dáil Éireann, s. 8 https://data.oireachtas.ie/ie/oireachtas/bill/2016/1/eng/ver_b/b01b16d.pdf.

¹¹ Joint Committee on Housing, Planning and Local Government, Thursday, 22 March 2018 https://data.oireachtas.ie/ie/oireachtas/debateRecord/joint_committee_on_housing_planning_and_local_government/2018-03-22/debate/mul/main.pdf.

¹² Perspektivmeldingen 2017 https://www.regjeringen.no/no/tema/okonomi-og-budsjett/norsk_okonomi/perspektivmeldingen-2017/id2484715/.

¹³ Perspektivmeldingen – en enighetsmaskin?, Teknologirådet, Forskningsrådet, 2014, p. 11–13 <https://teknologiradet.no/wp-content/uploads/sites/19/2014/12/Perspektivmeldingen-en-enighetsmaskin-WEB.pdf>.

¹⁴ Finansdepartement, Perspektivmeldingen 2017, Meld. St. 29 (2016–2017) <https://www.regjeringen.no/contentassets/aefd9d12738d43078cbc647448bbeca1/no/pdfs/stm201620170029000dddpdfs.pdf>.

¹⁵ Perspektivmeldingen 2017 [https://www.stortinget.no/no/Saker-og-publikasjoner/Saker/Sak/?p=67719; Innstilling fra finanskomiteen om Perspektivmeldingen 2017, Innst. 358 S \(2016–2017\), 30 May 2017](https://www.stortinget.no/no/Saker-og-publikasjoner/Saker/Sak/?p=67719; Innstilling_fra_finanskomiteen_om_Perspektivmeldingen_2017, Innst. 358 S (2016–2017), 30 May 2017) <https://www.stortinget.no/globalassets/pdf/innstillinger/stortinget/2016-2017/inns-201617-358s.pdf>.

¹⁶ Hvordan blir Norge i 2030? <https://teknologiradet.no/norge-2030/hvordan-blir-norge-i-2030/>.

¹⁷ Nye perspektiver – perspektivmeldingen som fremtidsdokument, Teknologirådet, 2014, p. 19, 22 <https://teknologiradet.no/wp-content/uploads/sites/19/2014/07/Bakgrunnsdokument-perspektivmeldingen.pdf>.

Sweden

In 2005, a committee chaired by the Speaker presented a report with recommendations for changes to the way in which the Riksdag (Parliament) carried out its work. The report included a section dealing with research and future issues. The committee did not support establishing a special body for research and future issues, or making one committee responsible for such issues. It thought that this would run the risk of the issues being marginalised and lacking the essential connection with the Riksdag's regular work. Instead, all committees and committee secretariats should take responsibility for these issues. The Riksdag should also require the Government, in its more significant proposals, to set out the state of knowledge in the relevant area, based on research, technical assessments and future studies, etc.¹⁸

Generation goal for environmental policy

In 1999 Sweden introduced a generation goal, supported by 15 environmental quality goals, for example, clean air, flourishing lakes and streams, a good built environment, as a framework within which to develop its environmental policies. The aim is to hand over to the next generation a society in which Sweden's major environmental problems have been solved. The framework provides a structure for environmental activity and systematic follow up of environmental policy.¹⁹

The Government's proposal for the generation and environmental quality goals was approved by the Riksdag in 1999, together with a requirement, recommended by the Environment and Agriculture Committee, for the Government to establish interim goals for each of the environmental quality goals.²⁰ In 2001 the Riksdag approved the 62 interim targets proposed by the Government. The targets, many of which were tied to the year 2010, were varied, including, for example, specific numerical targets, actions to be taken and planning strategies.²¹ Over the next few years, the Riksdag approved further additions and amendments to the interim targets, and an additional environmental quality goal.

In 2010 the Riksdag approved the Government's proposal for changes to the generation goal system. Any amendment to the generation goal, or to the 16 environmental quality goals, continues to require the Riksdag's approval, but the milestone targets, which have replaced the interim targets, are set by the Government. In its proposal, the Government said that granting it the power to set milestone targets would allow greater flexibility to add or amend targets, and to drop targets that were no longer relevant, than was possible when all changes had to be approved by the Riksdag. The milestone targets would define steps on the way to achieving one or more of the environmental quality goals.²²

¹⁸ Riksdagen i en ny tid, huvudbetänkande av 2002 års riksdagskommitté, 7 December 2005, p. 11, 122–123 <https://data.riksdagen.se/fil/4ABC80FA-2A82-4F81-BA64-0761C7D8A779>.

¹⁹ Swedish environmental quality objectives <https://www.regeringen.se/49bba3/contentassets/c887c3695078405aa08d48990deec32e/engelsk-sammanfattning-av-prop.-199798145>; Regeringens proposition 2009/10:155, Svenska miljömål – för ett effektivare miljöarbete, 18 March 2010, p. 11 <https://www.regeringen.se/49bb9d/contentassets/1449a8c7eba646699273112764057181/svenska-miljomal---for-ett-effektivare-miljoarbete-prop.200910155>.

²⁰ Miljöpolitiken, Beslutat, 28 April 1999 https://www.riksdagen.se/sv/dokument-lagar/arende/betankande/miljopolitiken_GM01MJU6.

²¹ Svenska miljömål – delmål och åtgärdsstrategier, Beslutat 23 November 2001 http://www.riksdagen.se/sv/dokument-lagar/arende/betankande/svenska-miljomal---delmal-och-atgardsstrategier_GP01MJU3; The Swedish environmental objectives – interim targets and action strategies: summary of gov. bill 2000/01:130, Regeringskansliet, 2001 <https://www.regeringen.se/49bba2/contentassets/14511ab6345d41f987552af0ac10307c/engelsk-sammanfattning-av-prop.-200001130>.

²² Regeringens proposition 2009/10:155, Svenska miljömål – för ett effektivare miljöarbete, 18 March 2010, p. 6, 20, 34–35 <https://www.regeringen.se/49bb9d/contentassets/1449a8c7eba646699273112764057181/svenska-miljomal---for-ett-effektivare-miljoarbete-prop.200910155>; Miljö- och jordsbruksutskottets betänkande 2009/10:MJU25, Svenska miljömål, 8 June 2010 <https://data.riksdagen.se/fil/C954B0BB-0FC8-4EE0-AAB7-27BE02E3B761>; Svenska miljömål, Beslutat 22 June 2010 https://www.riksdagen.se/sv/dokument-lagar/arende/betankande/svenska-miljomal_GX01MJU25.

The Government presented the first milestone targets to the Riksdag for its information in 2012. As provided for in the Government's 2010 proposal, draft targets had been drawn up by a government-appointed committee consisting of members of the Riksdag and a senior public servant as chair. The committee had consulted widely and been assisted by government experts.²³

The Government reports to the Riksdag annually on the environmental goals system in its budget proposal, presented each September. Expenditure area 20, General environmental protection and nature conservation, includes a report on the status of the milestone targets.²⁴ The Environment and Agriculture Committee considers and reports on Expenditure area 20. Its report may include comment on the relationship between the Government and the Committee regarding the goals, and on how the Government is meeting its reporting requirements to the Riksdag, as well as on the goals and targets themselves.²⁵

To complement the annual review in the budget, the Government added an appendix to the 2017 Spring Fiscal Policy Bill that looked in depth at two areas of high importance for achieving the reduced climate impact environmental quality goal. The intention is to produce a similar appendix every second year.²⁶ The Government also presents an in-depth report on the environmental goals system to the Riksdag once in each four-year Riksdag term. The system forms a constant point of reference in government reports and proposals to the Riksdag on environmental issues and in the Environment and Agriculture Committee's reports.

In 2017 the Riksdag approved the Government's proposal for a climate policy framework, comprising a Climate Act, two climate policy goals and a change to the environmental quality goal for reduced climate impact.²⁷ The Climate Act, which came into force on 1 January 2018, requires the Government's climate policy to be based on a long-term, time-delimited emissions goal determined by the Riksdag. It also requires the Government to include a climate report in the annual budget proposal, and to present to the Riksdag, in the year following each general election, a climate action plan that must cover prescribed points.²⁸ The long-term, time-delimited emissions goal approved by the Riksdag requires Sweden to have zero net greenhouse gas emissions by 2045 at the latest. The second goal approved by the Riksdag sets milestone targets for 2030 and 2040.²⁹

United Kingdom

The Climate Change Act 2008 sets up a framework for the United Kingdom to achieve its long-term goals of reducing greenhouse gas emissions and to ensure steps are taken towards adapting to the impact of climate change. The Act sets a carbon target for 2050. It also requires the Secretary of State to set a carbon budget for each five-year period, starting with 2008–2012.³⁰

²³ Svenska miljömål – preciseringar av miljö kvalitetsmålen och en första uppsättning etappmål, Regeringskansliet, Miljödepartementet, 2012 https://www.miljomal.se/Global/24_las_mer/rapporter/regering/propositioner-mm/ds-2012-23.pdf; Etappmål i miljömålssystemet: delbetänkande av Miljömålsberedningen, 2011, SOU 2011:34 <https://www.regeringen.se/49bba9/contentassets/e9e32331b9824aacbda55732be4f7e4f/etappmal-i-miljomalssystemet-sou-201134>.

²⁴ Förslag till statens budget för 2018, 14 September 2017, Allmän miljö- och naturvård 20 <https://www.regeringen.se/4a65cf/contentassets/79f6d27416794f0bb146c792e02b65fc/utgiftsomrade-20-allman-miljo-och-naturvard.pdf>.

²⁵ Miljö- och jordsbruksutskottets betänkande 2016/17:MJU1, Utgiftsområde 20 Allmän miljö- och naturvård, p. 10–11 <https://data.riksdagen.se/fil/EF7344FF-4B9E-45B1-9B50-DEBFBF97084F>; Miljö- och jordsbruksutskottets betänkande 2017/18:MJU1, Utgiftsområde 20 Allmän miljö- och naturvård <https://data.riksdagen.se/fil/BE7F650E-D95B-4DOC-AECB-7D28C0109FFB>.

²⁶ Sveriges miljömål, Uppföljning <https://www.miljomal.se/Miljomalen/Uppfoljning-utvardering/>; Regeringens proposition 2016/17:100, 2017 års ekonomiska vårproposition, Förslag till riktlinjer, 6 April 2017, Bilaga 3 <https://www.regeringen.se/49740b/contentassets/f9a7d8e112894d87b0dece44e8e40683/2017-ars-ekonomiska-varproposition-prop.-201617100>.

²⁷ Ett klimatpolitiskt ramverk för Sverige http://www.riksdagen.se/sv/dokument-lagar/arende/betankande/ett-klimatpolitiskt-ramverk-for-sverige_H401MJU24#stepForslag.

²⁸ Klimatlag (2017:720) http://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/klimatlag-2017720_sfs-2017-720.

²⁹ Ett klimatpolitiskt ramverk för Sverige.

³⁰ Climate Change Act 2008, Explanatory notes, Summary <https://www.legislation.gov.uk/ukpga/2008/27/notes/division/2>.

Under the Act, the Secretary of State is responsible for laying various orders before Parliament. These include orders setting the five-yearly carbon budgets and orders setting a limit on the use of carbon units for each budgetary period. The Secretary of State may also order that the carbon target or a carbon budget be amended. All orders are subject to affirmative resolution procedure, meaning that both Houses of Parliament must vote in favour of them before they can become law.

The Act requires the Secretary of State to present certain statements to Parliament and prescribes the information that they must contain:

- Annual statement of UK emissions. The statement must be laid before Parliament no later than 31 March in the second year following the year to which it relates.
- Final statement for budgetary period. The statement must be laid before Parliament no later than 31 May in the second year following the carbon budget period to which it relates. If the net UK carbon account exceeds the carbon budget, the Secretary of State must, as soon as is reasonably practicable, lay before Parliament a report setting out proposals and policies to compensate in future periods for the excess emissions.
- Final statement for 2050. The statement must be laid before Parliament no later than 31 May 2052.

The Act also requires the Secretary of State to lay before Parliament:

- reports on the impact of climate change, containing an assessment of the risks for the United Kingdom of the current and predicted impact of climate change. The first report was required to be laid before Parliament in 2011 and subsequent reports no later than five years after the previous report was laid
- a programme for adaptation to climate change, to be laid as soon as is reasonably practicable after the report on the impact of climate change to which it relates.

The Committee on Climate Change, established by the Act, must report to Parliament annually on progress towards the carbon target and the carbon budgets.³¹

Since the Act was passed, three Carbon Budget Orders and three Credit Limit Orders have been approved by Parliament, most recently in 2016.³² The draft Carbon Budget Order 2016 and Climate Change Act 2008 (Credit Limit) Order 2016 were laid before Parliament in June 2016. Each was accompanied by an explanatory memorandum and impact assessment. The Orders were first scrutinised by the Joint Committee on Statutory Instruments, which checks statutory instruments to ensure that they are legal and within the powers delegated by the original Act.³³ They were then debated in Delegated Legislation Committees of the House of Commons, which subsequently voted to approve the Orders without debate, and considered by the House of Lords Secondary Legislation Scrutiny Committee.³⁴ The Committee drew the instruments to the special attention of the House on the ground that they gave rise to issues of public policy likely to be of interest to the House. The House of Lords approved the Carbon Budget Order 2016 following a debate, and the Credit Limit Order without debate.³⁵

³¹ Climate Change Act 2008 <https://www.legislation.gov.uk/ukpga/2008/27/contents>.

³² Carbon budgets: guidance <https://www.gov.uk/guidance/carbon-budgets>.

³³ The Carbon Budget Order 2016 <http://www.legislation.gov.uk/uksi/2016/785/introduction/made>; The Climate Change Act 2008 (Credit Limit) Order 2016 <http://www.legislation.gov.uk/uksi/2016/786/contents/made>; Joint Committee on Statutory Instruments, Sixth report of session 2016–17, 15 July 2016 <https://publications.parliament.uk/pa/jt201617/jtselect/jtstatin/27/27.pdf>.

³⁴ House of Commons, Third Delegated Legislation Committee, Draft Carbon Budget Order 2016, 18 July 2016 <https://hansard.parliament.uk/Commons/2016-07-18/debates/c05e5e3c-49a9-4814-b493-3716f603e4d3/DraftCarbonBudgetOrder2016>; House of Commons, Fourth Delegated Legislation Committee, Draft Climate Change Act (Credit Limit) Order 2016, 18 July 2016 [https://hansard.parliament.uk/Commons/2016-07-18/debates/20ea990b-ffeb-40f9-bacf-a5b310b9879f/DraftClimateChangeAct2008\(CreditLimit\)Order2016](https://hansard.parliament.uk/Commons/2016-07-18/debates/20ea990b-ffeb-40f9-bacf-a5b310b9879f/DraftClimateChangeAct2008(CreditLimit)Order2016); Delegated Legislation, House of Commons Hansard, 19 July 2018 <https://hansard.parliament.uk/Commons/2016-07-19/debates/05DD2007-D23C-4F94-861C-7C80BAE1AF5F/DelegatedLegislation; Climate Change, House of Commons Hansard, 20 July 2016> <https://hansard.parliament.uk/Commons/2016-07-20/debates/6E2B05AE-0239-4464-A882-5409E8415CF9X/ClimateChange>.

³⁵ House of Lords Secondary Legislation Scrutiny Committee, 5th report of Session 2016–17, 14 July 2018 <https://publications.parliament.uk/pa/ld201617/ldselect/ldsecleg/25/25.pdf>; Carbon Budget Order 2016, House of Lords Hansard, 19 July 2016, Climate Change Act 2008 (Credit Limit) Order 2016, House of Lords Hansard, 19 July 2016 <https://hansard.parliament.uk/Lords/2016-07-19>.

I have not been able to find any record of consideration by Parliament of the statements and reports that the Act requires to be laid before it.

Wales

The Well-being of Future Generations (Wales) Act 2015 sets a framework within which public authorities will seek to ensure the needs of the present are met without compromising the ability of future generations to meet their own needs.³⁶

The Act requires the Government to present to the National Assembly:³⁷

- national indicators for measuring progress towards the achievement of well-being goals;
- revised national indicators and milestones, if revision occurs;
- an annual report on progress made towards meeting well-being objectives.

Also required to be presented to the National Assembly are:

- the results of four-yearly examinations by the Auditor General of the extent to which each public body has acted in accordance with the sustainable development principle in setting well-being objectives and taking steps to meet them
- a four-yearly future generations report, prepared by the Future Generations Commissioner for Wales, with an assessment of the improvements public bodies should make in order to set and meet well-being objectives in accordance with the sustainable development principle.

Initial implementation of the Act's provisions is still in progress. The national indicators were presented to the Assembly in March 2016.³⁸ The first future generations report is due to be presented to the Assembly in summer 2018.³⁹ The Auditor General presented a report in May 2018 on how public bodies have responded to the Act.⁴⁰

Assembly committees appear to be conscious of the Act and the national indicators in their scrutiny of government:

- Some committees have made recommendations in their reports on the Government's budget or accounts for greater incorporation of the well-being objectives and assessment of progress towards them. The Government has accepted the recommendations and briefly indicated how it intends to meet them.⁴¹
- The Climate Change, Environment and Rural Affairs Committee explicitly refers to the Act in its feedback on the Government's draft maritime plan, and the Act underlies one of its recommendations.⁴²
- The Future Generations Commissioner for Wales has appeared before the Public Accounts Committee as a witness for its inquiry into public procurement.⁴³

³⁶ Well-being of Future Generations (Wales) Bill, Decision details <http://www.senedd.assembly.wales/ieDecisionDetails.aspx?ID=1936>.

³⁷ Well-being of Future Generations (Wales) Act 2015, s. 10, 12, 15, 23 <https://www.legislation.gov.uk/anaw/2015/2/contents>.

³⁸ Welsh Government, How to measure a nation's progress? National indicators for Wales, 16 March 2016 <https://gov.wales/docs/desh/publications/160316-national-indicators-to-be-laid-before-nafw-en.pdf>

³⁹ Government response to Public Accounts Committee, Scrutiny of Accounts 2016–17 report, 28 March 2018 <http://www.assembly.wales/laid%20documents/gen-ld11521/gen-ld11521-e.pdf>.

⁴⁰ Auditor General for Wales, Reflecting on year one: How have public bodies responded to the Well-being of Future Generations (Wales) Act 2015?, May 2018 <http://www.assembly.wales/laid%20documents/agr-ld11542/agr-ld11542-e.pdf>.

⁴¹ Climate Change, Environment and Rural Affairs Committee, Scrutiny of the Welsh Government draft budget 2018–19, December 2017 <http://www.assembly.wales/laid%20documents/cr-ld11296/cr-ld11296-e.pdf>; Written response by the Welsh Government to the Report of the Climate Change Environment & Rural Affairs Committee: Cabinet Secretary for Economy and Transport – General and budget scrutiny, April 2018 <http://www.assembly.wales/laid%20documents/gen-ld11519/gen-ld11519-e.pdf>; Public Accounts Committee, Scrutiny of accounts 2016–17, February 2018 <http://www.assembly.wales/laid%20documents/cr-ld11411/cr-ld11411-e.pdf>; Government response to Public Accounts Committee, Scrutiny of Accounts 2016–17 report, 28 March 2018.

⁴² Climate Change, Environment and Rural Affairs Committee, Feedback on the Welsh Government's Draft Welsh National Maritime Plan, April 2018 <http://www.assembly.wales/laid%20documents/cr-ld11543/cr-ld11543-e.pdf>.

⁴³ Public Accounts Committee 05/02/2018 <http://record.assembly.wales/Committee/4506#C58930>

Parliamentary initiatives towards future thinking

Norway

The Board of Technology is an independent body established by the Government in 1999, on the initiative of the Storting, to advise both the Storting and the Government on new technologies. The Board makes its own decisions on what projects it will undertake. It involves experts, decision makers, stakeholders and laypeople in its work, and promotes a wide public debate on technological development.⁴⁴

The Board's most important priorities in 2016 were security, openness and personal privacy; innovation for the welfare state; and the long-term discussion on Norway in 2030. During the year it provided advice, some of which was based on papers the Board had published, to individual members of the Storting, parliamentary parties and committees. It held two meetings with the Storting's cross-party Techno Group, for which it acts as the secretariat.⁴⁵

Scotland

Scotland's Futures Forum was established in 2005 as the Scottish Parliament's think tank. It is formally constituted as a company limited by guarantee owned wholly by the Scottish Parliament Corporate Body (SPCB).

The purpose of the Forum is to promote research and stimulate debate on the long-term challenges and opportunities that Scotland faces and enable members of the Scottish Parliament (MSPs) and others to consider the effect of policy decisions or potential policy decisions on Scotland's long-term future.

The Forum's work is overseen by a Board of Directors, chaired by Parliament's Presiding Officer, comprising both MSP and non-MSP directors. It is 100 percent funded by the SPCB.⁴⁶

In 2017 the Forum launched its Scotland 2030 Programme, which, through a series of seminars, aims to present MSPs and others with different visions and ideas and to ask them to consider their aspirations for future Scotland.⁴⁷ The Forum remarked in 2015 that:

The deep policy issues explored by the Forum are sometimes fundamental to the development of ideas and thinking that eventually lead to policy proposals and formulation ...

Scotland's Futures Forum is liaising with Committees, Spice [Scottish Parliament Information Centre] and other Parliamentary stakeholders as appropriate to take this learning into Parliament but there remains an on-going challenge to both engage with a broader base of Members and to promote the use of the information in a way that is easily accessible to the public.⁴⁸

The Forum made a submission in 2017 to the Economy, Jobs and Fair Work Committee's inquiry into Scotland's economic performance, drawing the Committee's attention to a recent event held by the Forum on Scotland's future economy.⁴⁹

⁴⁴ Om Teknologirådet <https://teknologiradet.no/om-oss/om-oss-post/>; Norwegian Board of Technology <https://teknologiradet.no/english/>.

⁴⁵ Teknologirådets årsrapport for 2016, Teknologirådet, March 2017 <https://teknologiradet.no/wp-content/uploads/sites/19/2013/08/Teknologir%C3%A5dets-%C3%A5rsrapport-2016.pdf>.

⁴⁶ Scotland's Futures Forum <http://www.scotlandfutureforum.org/>.

⁴⁷ Scotland's Futures Forum, SPCB (2017) Paper 50, 1 June 2017 [http://www.parliament.scot/SPCB/2017/SPCB\(2017\)Paper_050.pdf](http://www.parliament.scot/SPCB/2017/SPCB(2017)Paper_050.pdf).

⁴⁸ Scotland's Futures Forum, SPCB (2015) Paper 53 by correspondence [http://www.parliament.scot/SPCB/2015/SPCB\(2015\)Paper053.pdf](http://www.parliament.scot/SPCB/2015/SPCB(2015)Paper053.pdf).

⁴⁹ Scotland's economic performance, Scotland's Futures Forum, 2017 http://www.parliament.scot/S5_EconomyJobsFairWork/Inquiries/PSE025-SFF.pdf.

Appendix 4: Parliamentary Library research request response: Auditing of long-term governance and policy in Canada, Australia, Ireland and the United Kingdom

Date:	30 July 2018
Prepared by:	Pleasance Purser, Research Analyst
Your request:	To what extent do the national audit institutions of Australia, Canada, Ireland and the United Kingdom undertake audits and scrutiny activities with a particular focus on long-term governance and policy issues?

As far as I have been able to discover, the national audit institutions of Australia, Ireland and the United Kingdom do not systematically undertake audit and scrutiny activities with a particular focus on long-term governance and policy issues. There may be references to future generations in individual audit reports, but there is no overall systematic focus on the future. Ireland's Comptroller and Auditor General must not, in any report, question or express an opinion on the merits of policies or policy objectives.¹ The United Kingdom Comptroller and Auditor General is prohibited from questioning the merits of the policy objectives of any department, authority or body in respect of which an examination is carried out.²

In Canada the situation is different. The Office of the Auditor General has a statutory obligation to monitor and report on the Federal Sustainable Development Strategy, and the sustainable development strategies of individual government departments and certain agencies. A bill to amend the Federal Sustainable Development Act is currently before Parliament. The bill would broaden the Act's focus and place greater emphasis on intergenerational equity. Further information is set out below. I have included information on Parliament's role as well as that of the Office of the Auditor General.

Canada

The Federal Sustainable Development Act was passed in 2008. Its purpose is to provide the legal framework for developing and implementing a Federal Sustainable Development Strategy (the Strategy) to make environmental decision-making more transparent and accountable to Parliament. The Act defines sustainable development as development that meets the needs of the present without compromising the ability of future generations to meet their own needs.³

Every three years the Government must develop a Strategy that sets out federal sustainable development goals and targets, and an implementation strategy for meeting each target, and identifies the minister responsible for meeting each target. Individual government departments and designated agencies must also prepare, and update at least once every three years, a sustainable development strategy containing objectives and plans for the department or agency that comply with and contribute to the Federal Strategy.⁴

¹ Comptroller and Auditor General (Amendment) Act, 1993, s. 11 <http://www.irishstatutebook.ie/eli/1993/act/8/enacted/en/print.html>.

² National Audit Act 1983, s. 6 <https://www.legislation.gov.uk/ukpga/1983/44/contents>.

³ Federal Sustainable Development Act, s. 2, 3 <http://laws-lois.justice.gc.ca/PDF/F-8.6.pdf>.

⁴ Federal Sustainable Development Act, s. 9, 11.

Role of the Auditor General

The Auditor General must appoint a senior officer to be the Commissioner of the Environment and Sustainable Development. The Commissioner reports directly to the Auditor General.⁵ The office of Commissioner was originally established in 1995 to monitor the sustainable development strategies of large government departments.⁶

The Commissioner's purpose, as set out in the Auditor General Act, is to provide sustainable development monitoring and reporting on the progress of government departments and designated agencies towards sustainable development, which is a continually evolving concept based on the integration of social, economic and environmental concerns, and that may be achieved by, among other things:⁷

- (a) the integration of the environment and the economy
- (b) protecting the health of Canadians
- (c) protecting ecosystems
- (d) meeting international obligations
- (e) promoting equity
- (f) an integrated approach to planning and making decisions that takes into account the environmental and natural resource costs of different economic options and the economic costs of different environmental and natural resource options
- (g) preventing pollution
- (h) respect for nature and the needs of future generations.

The Commissioner's functions are to:⁸

- review and comment on the draft of the Federal Sustainable Development Strategy as to whether the targets and implementation strategies can be assessed
- examine and inquire into the extent to which government departments and designated agencies have contributed to meeting the targets set out in the Strategy and have met the objectives, and implemented the plans, set out in their own sustainable development strategies laid before Parliament
- report annually to Parliament, on behalf of the Auditor General, concerning anything that the Commissioner considers should be brought to its attention in relation to environmental and other aspects of sustainable development, including:
 - the extent to which government departments and designated agencies contributed to meeting the targets set out in the Strategy and have met the objectives, and implemented the plans, set out in their own development strategies laid before Parliament
 - the number of petitions (see below) recorded, their subject matter and their status
 - the making of regulations prescribing the form and content of sustainable development strategies
- examine the triennial report by the Sustainable Development Office on the Government's progress in implementing the Strategy, and report on his or her assessment.

Any Canadian resident may present a petition to the Auditor General about an environmental matter in the context of sustainable development that is the responsibility of a government department or designated agency. The Auditor General must make a record of the petition and forward it to the appropriate minister. The minister must consider the petition and send a reply to the petitioner, as well as a copy to the Auditor General.⁹

⁵ Auditor General Act, s. 15.1 <http://laws-lois.justice.gc.ca/PDF/A-17.pdf>.

⁶ House of Commons Standing Committee on Environment and Sustainable Development, *Federal sustainability for future generations – a report following an assessment of the Federal Sustainable Development Act*, June 2016, p. 1 <http://www.ourcommons.ca/Content/Committee/421/ENVI/Reports/RP8378128/envirp02/envirp02-e.pdf>.

⁷ Auditor General Act, s. 21.1.

⁸ Federal Sustainable Development Act, s. 9; Auditor General Act, s. 23.

⁹ Auditor General Act, s. 22.

Role of Parliament

Parliament must be consulted during the development of each triennial strategy, with a draft being submitted to the appropriate committee in each House for review and comment. The Strategy itself must be tabled in both Houses and is deemed to be referred to each House's environmental or other designated standing committee.¹⁰

Within one year of the tabling of each strategy, each department or designated agency's updated sustainable development strategy must be laid before both Houses of Parliament.¹¹

At least once every three years the Sustainable Development Office of Environment and Climate Change Canada must report on the Government's progress in implementing the Strategy. The report must be laid before both Houses of Parliament.¹²

The first Strategy, for 2010–13, was tabled in Parliament in 2010. The most recent, for 2016–19, was tabled in 2016.¹³ The House of Commons Standing Committee on Environment and Sustainable Development held hearings on the drafts of the strategies. It has also held hearings on the reports of the Commissioner of the Environment and Sustainable Development.¹⁴ The Commissioner's reports included criticisms of both the Federal Strategy and the departmental strategies. As a consequence, the Committee decided in 2016 to assess the Federal Sustainable Development Act with a view to improving its effectiveness and implementation.¹⁵

In its report, the Committee commented that Parliament has a number of opportunities to help develop the Strategy, to follow the progress of its implementation and to hold departments accountable for the implementation of their sustainable development strategies. It noted that departments report to Parliament on their strategies as part of the estimates process and that because of this, and perhaps also because they are currently just a form of environmental reporting, committees whose focus is on other subjects had shown little interest in considering them. If the Act's scope were to be broadened, as recommended by the Committee, all steps of the Strategy process should be of interest to almost all committees. The Committee recommended that both draft and final strategies, the report on progress in implementing the Strategy, and the Commissioner's reports should be referred to all relevant committees.¹⁶

Proposed changes to the Federal Sustainability Development Act

The Committee was critical of the Act and its focus on environmental decision-making. It said it was clear that the Act's purpose should be amended to encompass explicitly all three pillars of sustainable development, social and economic as well as environmental. The Committee also recommended the establishment of an advocate for Canada's future generations, and suggested that Parliament might consider establishing a committee for the future like the Finnish Parliament's committee.¹⁷

¹⁰ Federal Sustainable Development Act, s. 9, 10.

¹¹ Federal Sustainable Development Act, s. 11.

¹² Federal Sustainable Development Act, s. 7.

¹³ Environment Canada, Sustainable Development Office, Planning for a sustainable future: A federal sustainable development strategy for Canada, 2010 http://webarchive.bac-lac.gc.ca:8080/wayback/20140807211922/http://www2.ec.gc.ca/dd-sd/F93CD795-0035-4DAF-86D1-53099BD303F9/FSDS_v4_EN.pdf; Environment and Climate Change Canada, Achieving a sustainable future: A federal sustainable development strategy for Canada 2016–2019, 2016 http://fsds-sfdd.ca/downloads/FSDS_2016-2019_Final.pdf.

¹⁴ Standing Committee on Environment and Sustainable Development, Work <http://www.ourcommons.ca/Committees/en/ENVI/Work?parl=40&session=3>.

¹⁵ House of Commons Standing Committee on Environment and Sustainable Development, Federal sustainability for future generations, p. 3–4.

¹⁶ Ibid, p. 13–14.

¹⁷ Ibid, p. 6, 8, 23–24.

In its response to the Committee's report, the Government announced its intention to modernise the Act.¹⁸ An amendment bill was introduced in 2017 and passed by the House of Commons in June 2018. It is now before the Senate.¹⁹

As passed by the House of Commons, the bill would amend the Act's purpose so that the Strategy also promotes coordinated government action to advance sustainable development and respects domestic and international sustainable development obligations, in order to improve Canadians' quality of life. The principles to be considered in the development of sustainable development strategies would include intergenerational equity.

The number of government entities required to produce sustainable development strategies would be expanded. Their strategies, and two-yearly updates on their progress, would be tabled in each House of Parliament and, as with the Strategy itself and the triennial report on its progress, be deemed to be referred to the standing committee that normally considers matters relating to sustainable development.²⁰

¹⁸ Report to the House of Commons Standing Committee on Environment and Sustainable Development on the Federal Sustainability Development Act, June 2017, p. 7 <https://www.canada.ca/en/environment-climate-change/services/sustainable-development/report-house-commons-federal-sustainability.html>.

¹⁹ C-57, An Act to amend the Federal Sustainable Development Act <http://www.parl.ca/LegisInfo/BillDetails.aspx?Language=E&billId=9057534>.

²⁰ Bill C-57, An Act to amend the Federal Sustainable Development Act, as passed by the House of Commons, 4 June 2018 <http://www.parl.ca/DocumentViewer/en/42-1/bill/C-57/third-reading>.

Appendix 5: Parliamentary Library research request response: Parliamentary scrutiny of government future thinking in Germany

Date:	2 October 2018
Prepared by:	Pleasance Purser, Research Analyst
Your request:	German Parliament's involvement with long-term governance through the Sustainable Development Strategy.

Parliamentary Advisory Council on Sustainable Development

The Parliamentary Advisory Council on Sustainable Development was first established in 2004. Since then, it has been re-established by each new Bundestag. The motion to establish the Council states that it carries out parliamentary scrutiny of the Federal Government's sustainability policy, doing so in an appropriate, interdisciplinary manner. The Council's proceedings are governed by the rules for committees in the Bundestag's *Rules of Procedure*. Like other Bundestag committees, it has the constitutional right to require the attendance of a minister at its meetings. It must report regularly to the Bundestag on its activities. The Council has 17 members from across the parliamentary parties.¹

The Council's functions are to:

- scrutinise the Federal Government's National Sustainability Strategy, especially the further development of indicators and objectives, the setting of specific measures and instruments to implement the Strategy, and the inter-linkage of significant policy approaches of relevance to national sustainability
- scrutinise the Federal Government's sustainability policy in relation to Europe, in particular, the European Strategy for Sustainability
- scrutinise the Federal Government's sustainability policy with regard to the United Nations, in particular, the activities and measures within the framework of the Rio follow-up process.

In carrying out these functions, the Council:

- monitors the discussions concerning sustainable development in other Bundestag committees and may submit expert opinions and recommendations to the relevant lead committee
- considers other significant issues relating to sustainable development that would further the development process and, if necessary, submits recommendations to the Bundestag or the Government
- evaluates the Government's sustainability impact assessments (of bills and regulations) and presents its

¹ Antrag der Fraktionen CDU/CSU, SPD, AfD, FDP, Die Linke. und Bündnis 90/Die Grünen, Einsetzung des Parlamentarischen Beirats für nachhaltige Entwicklung, Deutscher Bundestag, 19. Wahlperiode, Drucksache 19/1837, 24 April 2018 <http://dip21.bundestag.de/dip21/btd/19/018/1901837.pdf>; Motion tabled by the parliamentary groups of the CDU/CSU, SPD, AfD, FDP, the Left Party and Alliance 90/The Greens, Establishment of the Parliamentary Advisory Council on Sustainable Development, German Bundestag, 19th electoral term, Printed Paper 19/1837, 24 April 2018, https://www.bundestag.de/blob/556952/8e32c5927fbc93c64c047131e7cfe13a/19_1837-data.pdf; Deutscher Bundestag, Stenografischer Bericht, 28. Sitzung, Berlin, Mittwoch, den 25. April 2018 <http://dip21.bundestag.de/dip21/btp/19/19028.pdf>; The Parliamentary Advisory Council on Sustainable Development, Deutscher Bundestag, 2015 <https://www.btg-bestellservice.de/pdf/81018100.pdf>; Antrag der Fraktionen CDU/CSU, SPD, Die Linke. und Bündnis 90/Die Grünen, Einsetzung des Parlamentarischen Beirats für nachhaltige Entwicklung, Deutscher Bundestag, 18. Wahlperiode, Drucksache 18/559, 19 February 2014 <http://dip21.bundestag.de/dip21/btd/18/005/1800559.pdf>.

opinion on them to the relevant lead committee, which must discuss the opinion and produce a written appraisal

- scrutinises the activities of the Federal Chancellery's State Secretaries Committee on Sustainable Development and other federal government institutions on sustainable development, in particular, the Council for Sustainable Development
- maintains contact and consults with other institutions for the promotion of sustainable development, especially other national parliaments, the German states and European Union (EU) institutions.²

Advisory Council expert opinions on government sustainability impact assessments

At the Advisory Council's instigation, the Government amended the *Joint Rules of Procedure of the Federal Ministries* in 2011 to require ministries to include in their regulatory assessment of a bill, or new regulation, an assessment of whether its effects, and in particular its long-term effects, accord with sustainable development.³ The evaluation of these sustainability impact assessments is included among the Council's functions in its establishment motion.

The Council's secretariat notifies Council members weekly of newly presented bills and regulations. Two members, one government and one opposition, with the relevant expertise act as rapporteurs for each bill or regulation. They conduct an appraisal with reference to the 2030 Agenda sustainable development goals and Germany's Sustainable Development Strategy, and also consider any other sustainability aspects. Within 14 days they must agree on and submit a review note to the Council secretariat. The note includes relevant statements from the bill's or regulation's covering or explanatory note, the relevant sustainable development goals and ministerial rules and indicators from the Sustainable Development Strategy, and the reasons for requesting or not requesting further information from the Government.

The secretariat compiles the results of the review notes into a votes list for decision by the Council. Once the votes list has been adopted, the secretariat draws up an expert opinion for each bill or regulation, based on the review note and consultation with the rapporteurs. If necessary, the expert opinion will include a 'request for examination' to the relevant government ministry for further information on the bill's or regulation's sustainability impact. All expert opinions must be received by the lead committee no later than the day of the bill's or regulation's first reading. If an expert opinion includes a request for examination, the Council asks the committee to include the request and the response to it in the committee's report.⁴

Committee treatment of Advisory Council's expert opinions

To get an idea of how committees deal with the Council's expert opinions in their reports, I looked at a number of committee reports on bills and regulations from 2016 and 2017. The selection was random, and I cannot vouch for the reports' representativeness. Of the reports on bills that I looked at, only those on government bills contained a section on the Advisory Council's expert opinion. I did not come across an opinion that had included a request for examination.

² Ibid.

³ Gemeinsame Geschäftsordnung der Bundesministerien, s. 44(1), s. 62 https://www.bmi.bund.de/SharedDocs/downloads/DE/veroeffentlichungen/themen/ministerium/ggo.pdf?__blob=publicationFile&v=2; Joint Rules of Procedure of the Federal Ministries (GGO), s. 44(1), s. 62 https://www.bmi.bund.de/SharedDocs/downloads/EN/themen/moderne-verwaltung/ggo_en.pdf?__blob=publicationFile&v=1; Bericht des parlamentarischen Beirates für nachhaltige Entwicklung (Arbeitsbericht der 18. Wahlperiode), Unterrichtung durch den Parlamentarischen Beirat für nachhaltige Entwicklung, Deutscher Bundestag, 19. Wahlperiode, Drucksache 18/12511, 26 May 2017, p. 9 <http://dip21.bundestag.de/dip21/btd/18/125/1812511.pdf>.

⁴ Rules of procedure for the parliamentary appraisal of the sustainability impact assessment in the framework of regulatory impact assessment, Parliamentary Advisory Council on Sustainable Development, Deutscher Bundestag, 19th electoral term <https://www.bundestag.de/blob/562816/8fe7542b3a812eec0361cb9037a63416/verfahrensordnung-data.pdf>; Verfahrensordnung für die parlamentarische Bewertung der Nachhaltigkeitsprüfung im Rahmen der Gesetzesfolgenabschätzung, Parlamentarischer Beirat für nachhaltige Entwicklung, Deutscher Bundestag, 19. Wahlperiode <https://www.bundestag.de/blob/560888/f22d0f4280514ae7766bad6e07068461/verfahrensordnung-data.pdf>.

In all the examples I found, the committee noted that the Council had found the Government's sustainability impact assessment plausible,⁵ although in one instance this was conditional.⁶ Some reports contained no further comment on the Council's opinion. Others added brief extracts from the Government's impact assessment, with or without a comment from the Council. Comments included that the assessment should have contained additional references to the Sustainable Development Strategy, that it did not refer to the current version of the Strategy, and, in the case of the 2017 Budget Bill, that because the Budget affected all areas of life, the individual budget plans should be assessed, but the Council had not developed a procedure for doing this.⁷ The Council had commented adversely on the omission of an impact assessment from a bill relating to contract law, but had decided not to request further information.⁸

Sustainable Development Strategy

Germany's Sustainable Development Strategy, first adopted in 2002, is updated every four years. The most recent version was adopted in January 2017. The Strategy describes and offers guidance for a process of policy development for the longer term. Its aims include the achievement of intergenerational equity. The Parliamentary Advisory Council on Sustainable Development was among the bodies that contributed to the development of the latest version of the Strategy.

The Strategy presents Germany's measures for implementing the 2030 Agenda for sustainable development goals. Sustainable development, the Strategy says, covers not just environmental issues, but also the fight against poverty, education, health, sound government finances, distributive justice and anti-corruption. Every two years the Federal Statistical Office publishes a report on the status of the Strategy's 63 key indicators.⁹

The Advisory Council reviews the Federal Statistical Office's status reports and sets out its expectations for the actions the Government should take before the next progress report.¹⁰

⁵ I do not know if 'plausible' carries exactly the same connotations in German as it does in English. It is possible that in this context its meaning may be closer to 'convincing', but I am not certain.

⁶ Beschlussempfehlung und Bericht des Ausschusses für Verkehr und digitale Infrastruktur (15. Ausschuss) zu dem Gesetzentwurf der Bundesregierung – Drucksache 18/11300, 18/11534, 18/11683 Nr. 10 – Entwurf eines ... Gesetzes zur Änderung des Straßenverkehrsgesetzes, Deutscher Bundestag, 18. Wahlperiode, Drucksache 18/11776, 29 March 2017, p. 5–6 <http://dip21.bundestag.de/dip21/btd/18/117/1811776.pdf>; Beschlussempfehlung und Bericht des Ausschusses für Wirtschaft und Energie (9. Ausschuss) zu dem Gesetzentwurf der Bundesregierung – Drucksache 18/9949 – Entwurf eines Zweiten Gesetzes zur Entlastung insbesondere der mittelständischen Wirtschaft von Bürokratie (Zweites Bürokratieentlastungsgesetz), Deutscher Bundestag, 18. Wahlperiode, Drucksache 18/11778, 29 March 2017, p. 7–8 <http://dip21.bundestag.de/dip21/btd/18/117/1811778.pdf>.

⁷ Beschlussempfehlung und Bericht des Ausschusses für Wirtschaft und Energie (9. Ausschuss) zu dem Gesetzentwurf der Bundesregierung – Drucksache 18/9951 – Entwurf eines Dritten Gesetzes zur Änderung des Telekommunikationsgesetzes, Deutscher Bundestag, 18. Wahlperiode, Drucksache 18/11811, 30 March 2017, p. 5–6 <http://dip21.bundestag.de/dip21/btd/18/118/1811811.pdf>; Beschlussempfehlung und Bericht des Ausschusses für Wirtschaft und Energie (9. Ausschuss) zu der Verordnung der Bundesregierung – Drucksachen 18/12375, 18/12443 Nr. 2.4 – Verordnung zu Ausschreibungen für KWK-Anlagen und innovative KWK-Systeme, zu den gemeinsamen Ausschreibungen für Windenergieanlagen an Land und Solaranlagen sowie zur Änderung weiterer Verordnungen, Drucksache 18/12987, Deutscher Bundestag, 18. Wahlperiode, 28 June 2017, p. 70 <http://dip21.bundestag.de/dip21/btd/18/129/1812987.pdf>; Bericht des Haushaltsausschusses (8. Ausschuss) zu dem Entwurf eines Gesetzes über die Feststellung des Bundeshaushaltsplans für Haushaltsjahr 2017 (Haushaltsgesetz 2017) – Drucksachen 18/9200, 18/9202, Drucksache 18/9826, Deutscher Bundestag, 18. Wahlperiode, 18 November 2016, p. 62 <http://dip21.bundestag.de/dip21/btd/18/098/1809826.pdf>.

⁸ Beschlussempfehlung und Bericht des Ausschusses für Verkehr und digitale Infrastruktur (15. Ausschuss) zu dem Gesetzentwurf der Bundesregierung – Drucksache 18/1158 – Entwurf eines Gesetzes zu dem Abkommen vom 8. Dezember 2016 zwischen der Regierung der Bundesrepublik Deutschland und der Europäischen Agentur für Flugsicherheit über den Sitz der Europäischen Agentur für Flugsicherheit, Deutscher Bundestag, 18. Wahlperiode, Drucksache 18/11768, 29 March 2017, p. 4 <http://dip21.bundestag.de/dip21/btd/18/117/1811768.pdf>.

⁹ German sustainable development strategy: summary, the Federal Government, 2016, p. 2–5 https://www.bundesregierung.de/Content/EN/StatischeSeiten/Schwerpunkte/Nachhaltigkeit/Anlagen/2017-04-12-kurzpapier-n-en.pdf;jsessionid=D30C45F4F7580D082203DE4B0CD59D60.s2t2?__blob=publicationFile&v=7.

¹⁰ Stellungnahme des Parlamentarischen Beirates für nachhaltige Entwicklung zum Indikatorenbericht 2014 "Nachhaltige Entwicklung in Deutschland" des Statistischen Bundesamtes und Erwartungen an den Fortschrittsbericht 2016 der nationalen Nachhaltigkeitsstrategie, Unterrichtung durch den Parlamentarischen Beirates für nachhaltige Entwicklung, Deutscher Bundestag, 18. Wahlperiode, Drucksache 18/7082, 16 December 2015 https://www.bundestag.de/blob/399676/708f50f1202d2342bbf819d077fefaff/stellungnahme_indikatorenbericht-2014-data.pdf.

Work of the Advisory Council in the 18th Bundestag

In its report on its work in the 18th Bundestag (2013–2017), presented in May 2017, the Advisory Council detailed a range of activities, in addition to the production of expert opinions. As well as its review of the 2014 status report on the Sustainable Development Strategy, the Council issued papers on the 2013 peer review of the Strategy and on the Strategy's most recent update. The Council worked with the Government to promote sustainable development and published papers on issues such as sustainable public sector procurement and sustainable urban development.

The Council advocated for, among other things, producer responsibility in the circular economy and attention to sustainability in decisions the Bundestag makes about its travel services. Other activities included organising a public symposium on the inclusion of the principle of sustainable development in the *Basic Law*, as well as holding public hearings on sustainability in the film industry, and opportunities and risks for sustainability in the Transatlantic Trade and Investment Partnership. The Council also published submissions on EU and United Nations sustainability initiatives and undertook other work and travel associated with them.¹¹ The Council's report on its work was debated very briefly in the Bundestag.¹²

Status of the Advisory Council

Rather than being established as a standing committee of the Bundestag under the Bundestag's *Rules of Procedure*, the Council is established under article 44 of the *Basic Law*, which provides for the establishment by the Bundestag of committees of inquiry. For the Council to continue in existence, a motion for its establishment must be presented to each new Bundestag by one quarter of the Bundestag's members. This occurs after the standing committees have already been established. The Council has pointed out that unlike committees of inquiry, which are set up for a finite purpose, its work is ongoing, and it has drawn attention to the difficulties its mode of establishment creates for the continuity of its work. It has requested that it be established under the Bundestag's *Rules of Procedure* instead.¹³

It may be that the establishment of the Council as a committee of inquiry rather than a standing committee is the reason for the inclusion in its establishment motion of the statement that the *Rules of Procedure* rules for committees apply to it, and also the committees' constitutional right to require ministers' attendance at their meetings. *The 2018 Peer Review on the German Sustainability Strategy*, chaired by Helen Clark, noted that the Council did not have the power and status of a standing committee, and recommended that it should be transformed into a more powerful committee.¹⁴

¹¹ Bericht des parlamentarischen Beirates für nachhaltige Entwicklung (Arbeitsbericht der 18. Wahlperiode), Unterrichtung durch den Parlamentarischen Beirat für nachhaltige Entwicklung, Deutscher Bundestag, 19. Wahlperiode, Drucksache 18/12511, 26 May 2017.

¹² Stenografischer Bericht, Auszug, Plenarprotokoll 18/237, 237.Sitzung, 1.Juni 2017 https://www.bundestag.de/blob/510130/5c05c27bdd0017c753a01a9991a4561d/plenarprotokoll_18_237-data.pdf.

¹³ Bericht des parlamentarischen Beirates für nachhaltige Entwicklung (Arbeitsbericht der 18. Wahlperiode), Unterrichtung durch den Parlamentarischen Beirat für nachhaltige Entwicklung, Deutscher Bundestag, 19. Wahlperiode, Drucksache 18/12511, 26 May 2017, p. 3; Basic Law for the Federal Republic of Germany, art. 44 <https://www.btg-bestellservice.de/pdf/80201000.pdf>.

¹⁴ The 2018 peer review on the German Sustainability Strategy: Report by the International Peer Group chaired by Helen Clark, German Council for Sustainable Development, 2018, p. 21 https://www.nachhaltigkeitsrat.de/wp-content/uploads/2018/05/2018_Peer_Review_of_German_Sustainability_Strategy_BITV.pdf.

Appendix 6: Parliamentary Library research request response about statutory requirements imposing future-oriented obligations on central and local government

This document is a catalogue of New Zealand statutes that impose future-oriented obligations on central and local government agencies. It is not comprehensive but attempts to identify most Acts that specifically refer to stewardship, the future well-being of communities or to the needs of future generations.

State Sector Act 1988

References to stewardship were inserted into the State Sector Act 1988 by the State Sector Amendment Act 2013.

A definition of stewardship in section 2 of the Act states: “stewardship means active planning and management of medium- and long-term interests, along with associated advice”. This appears to be the only definition of stewardship in New Zealand statute law.

The 2013 Act expanded the list of “principal responsibilities” of chief executives to include (in new section 32):

- the stewardship of the department or departmental agency, including of its medium- and long-term sustainability, organisational health, capability, and capacity to offer free and frank advice to successive governments; and
- the stewardship of—
 - (i) assets and liabilities on behalf of the Crown that are used by or relate to (as applicable) the department or departmental agency; and
 - (ii) the legislation administered by the department or departmental agency; and

The 2013 Act also inserted references to “a culture of stewardship” in a new purpose section (section 1A) and a new section setting out the role the State Services Commissioner (section 4A).

Local Government Act 2002

One of the purposes of local government identified in section 10 of the Local Government Act 2002 is:

- to meet the current and future needs of communities for good-quality local infrastructure, local public services, and performance of regulatory functions in a way that is most cost-effective for households and businesses.

Section 14 of the Local Government Act 2002 sets out the principles that a local authority must adhere to. Some of these principles refer specifically to stewardship and to the interests and needs of future communities and generations. Section 14 states (in part):

- when making a decision, a local authority should take account of—
 - (i) the diversity of the community, and the community's interests, within its district or region; and
 - (ii) the interests of future as well as current communities; and
 - (iii) the likely impact of any decision on the interests referred to in subparagraphs (i) and (ii):

a local authority should ensure prudent stewardship and the efficient and effective use of its resources in the interests of its district or region, including by planning effectively for the future management of its assets; and

in taking a sustainable development approach, a local authority should take into account—

- (i) the social, economic, and cultural interests of people and communities; and
- (ii) the need to maintain and enhance the quality of the environment; and
- (iii) the reasonably foreseeable needs of future generations.

References to the “future well-being” of communities occur throughout the Local Government Act.

Local Government (Auckland Council) Act 2009

The Local Government (Auckland Council) Act 2009 refers to stewardship just once – in relationship to the functions of the Independent Māori Statutory Board established under section 81. Among the Board’s specific functions, as set out in section 85 of the Act, is the appointment of up to two members to each committee of the Auckland Council that deals with “the management and stewardship of natural and physical resources”.

The Local Government Commission must have regard to the “current and future well-being” of Auckland communities in determining certain disputes under section 98 of the Act.

Resource Management Act 1991

The Resource Management Act 1991, as passed, appears to have introduced the concept of the “ethic of stewardship” into New Zealand statute law by means of its definition of “kaitiakitanga” in section 2. This definition was somewhat modified in December 1997 by the Resource Management Amendment Act 1997. It now states:

kaitiakitanga means the exercise of guardianship by the tangata whenua of an area in accordance with tikanga Māori in relation to natural and physical resources; and includes the ethic of stewardship

Under section 7 of the Resource Management Act 1991, all persons exercising their statutory powers are required to have “particular regard” to kaitiakitanga and to the ethic of stewardship:

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall have particular regard to—

- (a) kaitiakitanga:
- (aa) the ethic of stewardship:

Marine and Coastal Area (Takutai Moana) Act 2011

The Marine and Coastal Area (Takutai Moana) Act 2011 incorporates by reference the definition of kaitiakitanga in the Resource Management Act 1991.

Fisheries Act 1996

The Fisheries Act 1996 is the only principal Act – other than the Resource Management Act 1991 – to directly refer to the “ethic of stewardship”. Section 2 provides the following definition:

kaitiakitanga means the exercise of guardianship; and, in relation to any fisheries resources, includes the ethic of stewardship based on the nature of the resources, as exercised by the appropriate tangata whenua in accordance with tikanga Māori

A requirement to have “particular regard” to kaitiakitanga in providing for the input and participation of tangata whenua is imposed on the Minister when preparing to take certain measures (section 12); before recommending the alteration of a quota management area (section 25); when developing a procedure for the resolution of certain disputes (section 116); before temporarily closing any area of New Zealand fisheries waters or temporarily restricting or prohibiting the use of any fishing method (section 186A); before temporarily closing any area of South Island fisheries (section 186B).

Other Acts: Stewardship

One of the objectives of the Housing Corporation – set out in section 3B of the **Housing Corporation Act 1974** – is “to give effect to the Crown’s social objectives by providing housing ... in a businesslike manner”. To that end, the Corporation is to be an organisation that “operates with good financial oversight and stewardship”.

Among the heritage features of the Waitakere Ranges heritage area established by the **Waitakere Ranges Heritage Area Act 2008** that contribute to the area’s significance are “the historical, traditional, and cultural relationships of people, communities, and tangata whenua with the area and their exercise of kaitiakitanga and stewardship” (section 7).

In the **Conservation Act 1987**, a “stewardship area” is a type of conservation area (section 2).

The focus of Part 2 of the **Waste Minimisation Act 2008** is “product stewardship”.

Other Acts: Future generations

In the **Conservation Act 1987**, “conservation” is defined (in part) as “the preservation and protection of natural and historic resources for the purpose of ... safeguarding the options of future generations” (section 2). Among the functions of the Department of Conservation – set out in section 6 of the Act – is to promote the benefits of the conservation of natural and historic resources and international co-operation to “present and future generations”.

The long title of the **Environment Act 1986** sets out its purpose, which includes ensuring that “in the management of natural and physical resources, full and balanced account is taken of ... the needs of future generations”.

The purpose of the **Energy Efficiency and Conservation Act 2000** identified in section 5 is the promotion of energy efficiency and conservation, and the use of renewable sources of energy. Those empowered by the Act’s provisions must take into account certain “sustainability principles”, which include “the reasonably foreseeable needs of future generations” (section 6).

Schedule 1 to the **Climate Change Response Act 2002** contains the United Nations Framework Convention on Climate Change. The preamble to this convention refers to the protection of the climate system for “present and future generations”.

Appendix 7: Commonwealth Parliamentary Association (CPA) survey

CPA survey: Parliamentary scrutiny of long-term governance and stewardship

The objective of this research project is to enhance the New Zealand Parliament's capacity to hold the Government to account for the quality of its long-term governance.

We expect an important output of this project to be advice to the Standing Orders Committee of the New Zealand Parliament on possible changes to the House's rules and practice.

The experience and practice of legislatures in countries around the world should provide useful information for this research.

Key terms

"Long-term" can mean as little as 3 years to 10 years, or far longer, depending on the nature of the issue. We are essentially concerned with policy issues, together with current and emerging national risks, which require thinking and action beyond a single parliamentary term.

Examples in New Zealand of policy issues of a long-term nature include:

- reducing greenhouse gas emissions and the pollution of freshwater resources
- maintaining sustainable investment in long-term public infrastructure (eg, transportation networks, water services and social housing)
- adjusting policy settings to mitigate the long-term fiscal impacts of an aging population
- meeting international obligations flowing from the Sustainable Development Goals.

1. Is there a legal requirement for the Government and/or Government agencies to report to the Parliament periodically on long-term issues?¹ Yes No

If yes, please provide examples:

2. Does the Government produce any other periodic reports to Parliament on long-term issues (for example, reports on national risks or long-term trends)? Yes No

If yes, please provide examples:

¹ An example in New Zealand is a requirement under the Public Finance Act 1989 for The Treasury to produce a regular investment statement to describe and state the value of the Government's significant assets and liabilities, how this has changed from the past and how it is expected to change in future.

3. How does Parliament scrutinise the reports cited in questions 1. and/or 2. (for example, are they considered by a parliamentary committee and/or debated in plenary session)?

4. Does the Parliament prepare its own reports in response to the reports cited in questions 1. and/or 2.? Yes No

If yes, please provide examples:

5. Does the Parliament initiate any evaluations of the Government's performance in addressing long-term issues (for example, through a committee inquiry)? Yes No

If yes, please provide examples:

6. Are there any structures or bodies (for example, parliamentary committees or Officers of Parliament) within or associated with your parliamentary system that are mandated to explore issues of long-term governance on behalf of the Parliament? Yes No

If yes, please provide examples of recent work they have conducted:

7. Are there any other requirements for the Parliament, in the usual course of its activity, to give attention to issues of a long-term nature (for example, through its consideration of bills, or a specific plenary debate)? Yes No

If yes, please provide examples:

8. Do you have any other information relevant to Parliaments and long-term governance you would like to share?

Appendix 8: Summary of the Commonwealth Parliamentary Association survey responses

The Office of the Clerk surveyed Commonwealth Parliamentary Association (CPA) member parliaments about legislated and voluntary parliamentary scrutiny of long-term governance. Questions asked specifically about legally required and voluntary reporting by government to the legislature, how the legislature scrutinised any such reporting, and any scrutiny conducted independently by the Parliament itself (see Appendix VII). There were responses from 19 parliaments, of which 9 were national (Australia, Canada, Cyprus, Guyana, Malta, Mozambique, Solomon Islands, Sri Lanka and Wales) and 10 were states or provinces (Alberta, Gujarat, Manitoba, New South Wales, Ontario, Prince Edward Island, Québec, Queensland, Saskatchewan and Victoria). Responses were typically brief, giving a low level of detail, but enough to identify themes. Parliaments were not asked to rate how effective they thought such scrutiny was.

Results

Almost all legislatures carried out some form of long-term scrutiny; only Gujarat and Mozambique said they did none at all. On the other hand, not many parliaments had strong legislative requirements for scrutiny. Even parliaments with strong legislative requirements for regular governmental reporting usually had only one or two such required reports, and they typically fell into similar broad categories, such as fiscal issues, environmental issues, indigenous issues, health issues and the United Nations Sustainable Development Goals (SDGs). Voluntary reporting was similarly scattered and could be recurring or one-off. Wales was the exception, with a range of required reporting including against the Well-being of Future Generations (Wales) Act 2015 (which also sets up a Future Generations Commissioner – see Part 3).

Governmental reporting to legislature

A common theme in responses was that whatever scrutiny was done, whether legally required or voluntary, was scattered or ad hoc, rather than a planned programme of scrutiny. Seven parliaments had legally required reporting by the Government or government agencies to the legislature. Of these seven, national governments often had a requirement to report periodically on long-term issues, akin to New Zealand's Pre-election Economic and Fiscal Update. Regional parliaments, on the other hand, were more likely to report on environmental issues or on compliance with specific legislation (such as smoking cessation, child welfare or indigenous issues). In some cases, such as Malta, the specific legislation had a wide remit: the Parliament of Malta debates the annual report of an authority in charge of their sustainable development strategy. However, only one parliament, the Welsh Assembly, had a comprehensive, legally mandated programme of long-term scrutiny, via its Well-being of Future Generations (Wales) Act 2015 (see discussions later in this appendix). Via the Government of Wales Act 2006, Wales also required its government to report regularly on a wide range of issues, including financial issues, greenhouse gas emissions and the Welsh language.

Report mechanisms varied. Several Canadian provincial parliaments (Manitoba, Québec and Saskatchewan) had discrete pieces of legislation that required governments to table long-term reports at specific intervals. These pieces of legislation fit requirements for long-term scrutiny into legislation that does not otherwise have a long-term focus. Manitoba had at least 15 such pieces of legislation, which ranged from the Accessibility for Manitobans Act to the Workers Compensation Act. Québec's programme was more limited but included by way of example the Tobacco Control Act, which requires the Government to report to the National Assembly every five years. These reports were then typically scrutinised by a parliamentary committee.

Other common statutory reporting mechanisms included requirements for ministers to report to the House, especially on financial issues, or external commissions that were required to report to the House. For instance, the Queensland Family Responsibilities Commission leads long-term reforms for five indigenous communities and its reports must be tabled in the Legislative Assembly each year. Similarly, Québec has

a Sustainable Development Commissioner who is part of the Auditor General's office. Canada's Auditor General was also required to report annually on progress against the Federal Sustainable Development Strategy.

Voluntary long-term reporting was more broad both in prevalence and in subject. Governments could and did voluntarily report on closing race-based socioeconomic gaps (eg, Australia's Closing the Gap reporting) or against a voluntarily set sustainable development strategy. In Québec, for example, the environment department reports against Québec's 2015–20 Sustainable Development Strategy in its annual reports. Setting such a strategy and requiring reporting against it could theoretically be adopted by any of the parliamentary systems that require annual departmental reporting.

Many parliaments said their governments voluntarily reported to Parliament by tabling policy documents or occasional reports. However, these did not tend to receive much in the way of parliamentary scrutiny – Guyana and Solomon Islands, for example, both noted that their government reported to their Parliament on a range of issues, but reports were not considered or debated by Parliament unless a member successfully moved a motion to refer such reports to a parliamentary committee. Prince Edward Island's government has prepared a range of long-term strategies around climate change and health care, but there was no requirement for reports from these to be debated. On the other hand, Australia's annual Closing the Gap report is debated in parliament.

Legislature-driven scrutiny

Most parliaments had provisions for parliamentary committees to investigate long-term issues, either as part of an investigation into a specific issue or in and of themselves. However, few parliaments gave examples of this happening regularly. Sri Lanka has a temporary select committee specifically to review the SDGs; these goals were also sometimes reported against voluntarily by parliaments and are the subject of an inquiry by an Australian parliamentary committee. Australia noted that from 1990 to 1996 there was a standing committee on long-term strategies dedicated to investigating long-term issues. Solomon Islands' environment committee conducted an inquiry into sea-level rise from 2016–18. Environment committees seem particularly likely to initiate these sorts of investigations.

Canada's standing committees were able to voluntarily examine the Government's performance on any long-term issue. The committees had recently reported on greenhouse gas emissions produced by Canadian buildings and recommended improved building codes, and had also reported on human rights in Canada. New South Wales described a particularly robust and active, while still ad hoc, committee system with a range of specialist standing committees as well as ad hoc select committees routinely examining Auditor General reports and opinions and regularly self-referring inquiries, including an inquiry into two significant long-term transport infrastructure projects in Sydney. The New South Wales Auditor General has a current area of focus requiring them to consider whether government agency decisions consider intergenerational equity and sustainable investment strategies.

Options for further exploration

Because responses were not especially detailed, and respondents tended to interpret survey questions differently, it is difficult to draw solid conclusions. However, a few areas are worth exploring.

Parliamentary committees

One theme that came through strongly is the role of parliamentary committees. Committees received and scrutinised reports, reported back to legislature, initiated their own inquiries and made their own reports. Some jurisdictions had committees specifically dedicated to long-term issues. However, in most cases, this scrutiny was also ad hoc: it happened when committees were inspired to conduct an inquiry or had a report referred to them, rather than being a routine programme of investigation. Committees could adopt more methodical or formalised ways to scrutinise long-term governance, returning to the same issues on a regular but long-term schedule or by looking at sectors or countries as a whole rather than specific small issues. Jurisdictions could strengthen their committee system's scrutiny of long-term governance and development of forward thinking by dedicating a specific committee for long-term issues.

Annual reporting requirements

Many parliaments had routine annual reporting requirements for government departments, and these annual reports were typically scrutinised by committees. Québec takes advantage of this system in its environmental sector, requiring environment departments to report against the province's sustainable development goals. Such a programme could potentially be expanded across the government sector, rolling long-term scrutiny into the scrutiny conducted regularly by parliamentary committees. This strategy might be cheaper than setting up a brand-new department or office to conduct such scrutiny. However, including scrutiny of long-term issues in an annual review might mean long-term issues take a back seat to more immediate political problems.

Periodic reporting requirements in individual pieces of legislation

The tactic of setting periodic long-term reporting requirements in legislation, as some Canadian provinces do, is potentially effective and may demand little political capital to implement. However, it is inherently piecemeal. Gaps are likely to be left; in other cases, legislation might demand overlapping reporting. For example, if such a programme were to be implemented in New Zealand, reporting requirements in the Children, Young Persons, and Their Families Act 1989, the Children's Commissioner Act 2003, the Children's Act 2014 and the Child Poverty Reduction Act 2018 could result in reports with substantially overlapping material, depending on the requirements' scope and detail.

Parliamentary officers

Another tactic is the setting up of parliamentary officers or even government departments whose role is the long-term scrutiny of government. Wales is a good example of this; other jurisdictions used officers in Auditor Generals' offices. Dedicated parliamentary officers and departments are able to set broad and structured mandates. However, it takes money and political buy-in to create and sustain such an office.

Plenary debates

Two jurisdictions allowed for Parliament itself to debate or respond to long-term reporting on specific issues: Australia's Closing the Gap report, which has persisted since 2008, and Malta's annual reporting on its sustainable development strategy. Debates on single-issue reports can allow for deep but narrow scrutiny, while a single annual or periodic debate on long-term issues allows for broad but shallow scrutiny.

Conclusion

A survey of long-term scrutiny practices in overseas parliaments demonstrated that attention to long-term issues and scrutiny of governance remains broadly patchy, inconsistent, infrequent or ad hoc. Few responding parliaments had a coherent system established specifically for the purpose of scrutiny of long-term governance; most fitted any long-term scrutiny into short-term annual reporting or periodic reporting on specific issues. Nevertheless, overseas parliaments' practices can suggest options for parliaments interested in increasing long-term scrutiny, whether wholesale or by making small modifications to fit scrutiny into existing systems.

