Presiding Officers and Clerks Conference 2019

Rt Hon Trevor Mallard
Speaker
New Zealand House of Representatives

Fit-for-Purpose Parliament: reviewing and enhancing parliamentary effectiveness

The strength and vitality of the institution of Parliament is the responsibility of every person in this room. Every presiding officer must uphold the important traditions that underpin the Parliament's enduring independence and constitutional standing, while also ensuring that Parliament remains relevant, effective, and fit-for-purpose. Each Clerk advises the presiding officer both about the important traditions and about the need for change. This paper champions the process through which Parliament reviews and improves its own effectiveness, and urges you to ensure such a process occurs in your jurisdiction.

I will start by discussing the balance between tradition and innovation, and the need for regular review and reform. In doing so, I will advocate for the importance of the Standing Orders as constitutional rules that should be amended only with broad support. I will talk about what it means to review the Standing Orders so that Parliament is more effective, and will explain how the process works in New Zealand. Finally, I will give a sense of the issues I will raise, following limited preliminary consultation, when we undertake our next review of the Standing Orders later this year.

Retain the traditions that matter… but stay relevant

When the New Zealand Parliament is opened after each general election, the first action of the Speaker-elect is to seek confirmation in the role from the Governor-General, and to lay claim to the privileges of the House. I expect that a similar ceremony takes place in many of your Parliaments too. The claim of the Speaker's right to attend on the Sovereign, and to expect the "most favourable construction" on the House's proceedings, is a custom that appears to go back as far as the reign of Henry IV, at the beginning of the 1400s, and firm records show it occurring in 1523. So Speakers have been claiming the House's privileges for at least 600 years, probably longer. In particular, the claim of free speech was the focus of

ongoing tension between the Crown and Parliament over many years, culminating in 1641, when Charles I entered the House of Commons with an armed escort and attempted to arrest five members for treason. This gives rise to the strong parliamentary convention that neither the Sovereign nor her representative enters the Chamber of the House.

These venerable traditions might seem quaint, but they go to the heart of the House's constitutional status as an autonomous, representative institution. They have been retained so as to convey the important historical basis of Parliament, which underpins the House's day-to-day operations. There are many more traditions of this sort, from the symbolism of the Mace, to the role of the Leader of the Opposition, to the deliberative discipline of debating a bill and testing the House's support for it three times over.

But we don't cling onto traditions that have lost their relevance. While in claiming the privileges of the House we continue a tradition that can be traced to the time of Henry IV, other less helpful practices from that era dropped away long ago. Parliament hasn't recently deposed a monarch, rotten boroughs are a thing of the past, and we even allow people to watch debates in the House if they want.

For many public viewers, Parliament can seem anachronistic, and few would argue that this institution sits at the cutting edge of society. Yet the choice is there for each House to decide whether it will proactively review and update its procedures, or whether it will wait to be dragged reluctantly into the present for fear of becoming completely irrelevant. If the institution of Parliament loses its relevance and its responsiveness to the people, it starts to squander its legitimacy too.

Regular cycle of review

In New Zealand, we fortunately have developed the practice of reviewing the Standing Orders during each term of Parliament. This wasn't always the case: for large swathes of the 20th century, the Standing Orders stayed pretty static. However, in 1985, the Labour Government included parliamentary reform along with its broader sweep of constitutional change that responded to the Executive-dominated years under Sir Robert Muldoon. These reforms gave us the Constitution Act 1986, the State Sector Act 1988, the Public Finance Act 1989, and the New Zealand Bill of Rights Act 1990, and commenced the process of electoral

reform that resulted in the shift to MMP. As well as promoting a new Parliamentary Service Act to reduce Executive control over the administration of parliamentary resources, the Government instigated a review of the Standing Orders that resulted in radical changes, such as the current structure of multi-functional select committees that can initiate their own inquiries, and the curtailment of the Government's ability to throw the House into urgent sittings lasting through the night. Regular reviews of the Standing Orders followed, at the instigation of successive Governments, but it wasn't until 2003 that the Standing Orders Committee was itself mentioned in the Standing Orders. Now the cycle of regular review is well embedded. Like Australia, we have a three-yearly electoral cycle, which is very short by international standards, and so the effect is that the review of Standing Orders in each parliamentary term occurs quite frequently.

In terms of the timing of the review, it usually takes place in the latter half of the parliamentary term, with any resulting amendments to the Standing Orders being adopted with effect from the opening of the next Parliament. This timing helps to moderate the process: parties will not benefit immediately from the proposed rule changes, and are wary of shifting the balance too much, in case they wind up on the other side of the House as a result of the election.

Overwhelming cross-party support

This short review cycle is a good thing, because it counter-balances the tendency for the review of Standing Orders to be quite a conservative process. We treat the Standing Orders as constitutional rules, as they fundamentally influence the exercise of legislative power. This attitude has given rise to the convention that the Standing Orders Committee is chaired by the Speaker, and that it does not impose parliamentary changes by a bare majority. The committee tends not to decide matters by a vote in the normal sense; instead the committee seeks to find a package of recommended amendments that enjoys the support of an overwhelming majority of members across the House. Parties might not like some changes, but still accept them if they are balanced by others. That's the key: the review of Standing Orders generally involves the process of changing and updating the rules while properly balancing the interests of Government, Opposition, and non-aligned parties—and ensuring the interests of Parliament itself are protected. Moreover, the House has imposed

requirements on motions to suspend the Standing Orders, so the Government is deterred from shifting the goal-posts to progress particular business. Accordingly, decisions to suspend Standing Orders to adjust how the House deals with particular business are usually taken only by unanimous agreement, and motions to do so by majority are rare.

This aversion to taking a majoritarian approach to the House's rules goes back a long way. For many years after the House was established in 1854, a quorum of two-thirds of all members was needed to amend the Standing Orders, but this meant there was hardly any meaningful change as members could block disagreeable proposals by walking out the door. Through this means, they clung onto archaic debating rules that meant it was easy to filibuster legislation into a dysfunctional gridlock. In 1894, by sheer force of personality, Premier Richard Seddon pushed the House into removing the need for a two-thirds quorum, so that he could promote Standing Orders amendments to limit the "prolix speech" of members. But members were still conscious that change should not be imposed arbitrarily by the majority, and maintained a bipartisan approach. The last time a major procedural change was made against strong opposition was in 1931, when Prime Minister George Forbes engineered the adoption of a closure motion procedure to curtail debate, but even then this was only after a deal that had been carefully brokered in the Standing Orders Committee fell over. As an interesting twist, in 1985 when changes to the Standing Orders were sought to address Muldoon-style Executive domination of the House, Rob Muldoon himself was the leading Opposition member on the Standing Orders Committee. In his speech to the House on the proposals, he wholeheartedly endorsed the amendments.

So the regular cycle of review means that the constitutional importance of the Standing Orders is recognised by adopting a consensus-based approach, but important changes still occur over time. While it is sometimes possible to achieve major changes at the first attempt, they can also come about by socialising ideas and innovations over time. For example, the Clerk of the House proposed the introduction of online parliamentary petitions in 2011, and eventually convinced the House to adopt rules to enable them, on a trial basis, in 2018. Now e-petitions are a well-used and prominent feature of the Parliament website, and they are certain to be written permanently into the Standing Orders next year. This use of temporary rules to try out new things is a great way to get members on board with new initiatives.

CPA Benchmarks recommend regular reviews to enhance parliamentary rules

This conference is a great opportunity to promote the importance of regularly reviewing parliamentary rules, and it is also excellent that the Commonwealth Parliamentary Association (CPA) recently adopted this as one of its indicators of good parliamentary practice, as set out in the Recommended Benchmarks for Democratic Legislatures. These benchmarks set a minimum standard for how a parliament should be constituted and how it should function. All parliaments and legislatures of the CPA should be aware of the benchmarks and consider their application and implementation within their jurisdictions.

When the CPA held a conference to revise the benchmarks in 2018, the New Zealand Delegation promoted the inclusion of what is now benchmark 2.1.3, which recommends that:

> *The Legislature's rules, procedures and practice shall be reviewed regularly to enhance parliamentary effectiveness and relevance*

A cycle of regular review allows for incremental updates to the way the House operates and over time can result in significant shifts to procedure. Adopting a cycle of this sort is a far more effective approach to managing parliamentary rules, rather than reactive ad hoc updates, or the suspension of rules when they become inconvenient or unworkable.

The CPA benchmarks themselves provide a helpful toolkit for testing the parliamentary warrant of fitness. While some of the CPA benchmarks might not be readily applicable to every parliamentary context, they still provide some prompts for questioning the adequacy of current procedures. From the New Zealand perspective, not every benchmark is relevant, but others give real food for thought.

Updating parliamentary language

For example, a benchmark that is related to the one I mentioned above, and which I think our parliament could improve on, is benchmark 2.1.6. This reads as follows:

> *The Legislature's rules, procedures and practice shall be accessible to Members and to the public*

While our Standing Orders are publicly available and searchable via the Parliament website, accessibility is not just about availability. Non-experts should be able to locate, read and understand the rules and how they apply. Currently some of the language used in our Standing Orders is opaque. New members can find it a steep learning curve to get their heads around the Standing Orders and parliamentary jargon.

During the next review I would like to look at ways to make some of the more mysterious parliamentary terms more accessible. An example is the term "Supplementary Order Paper", which means a published set of amendments. The term is impenetrable for most people, and is outdated because these sets of amendments have not been published as "supplements" to the Order Paper for several decades. It would be much more accessible simply to refer instead to an "amendment paper".

Reducing such jargon was considered but not pursued in our 2017 review. Members have an understandable respect for parliamentary terms, and can be reluctant to change them. This is one of those areas where it is indeed important to consider the basis underpinning traditional ways of doing things, so we understand the significance of change. But we should not be afraid to examine closely any jargon that acts as a barrier to people engaging with Parliament. I am looking forward to engaging in that process afresh when the next review gets under way.

Drivers of change

It is really important, though, to make sure reviews of procedure aren't just about adjusting the words. There are numerous factors that drive changes to Parliament's ways and methods. Legislative, societal and political changes, technological developments and evolving practices can all prompt changes to the Standing Orders. The typical process of a review of Standing Orders resembles that for a select committee inquiry, including an open call for public submissions. This provides a unique opportunity for members, non-government organisations and the general public to have a say on any aspects of parliamentary practice. It means that the public can put forward ideas for making Parliament better.

One person who always makes a submission is the Clerk of the House. The Clerk tends to make an extensive submission, suggesting improvements that arise from the experience of the Clerk and his or her staff as advisers, close observers and participants in parliamentary

processes. This submission is heard in public, for the sake of transparency, after which the Clerk takes up the role of principal policy adviser to the Standing Orders Committee.

While the Clerk's submission to the Standing Orders Committee often contains imaginative ideas for improving the House's practice, on a less exciting level the Clerk also draws the committee's attention to legislative changes that require incorporation into the Standing Orders. For example, there is currently a Legislation Bill before the House that will, if passed, require some consequential amendments to the Standing Orders, because the bill amends provisions in the law that give legal effect to some of the House's decisions. Principally this relates to the House's ability to disallow regulations. The whole basis for publishing and bringing regulations into effect is being reformed, so that they generally will take effect only when published and made accessible to the public. Besides which, the terminology for regulations is being simplified: we will no longer be lumbered with such terms as "legislative instruments", "disallowable instruments" and—get this—"disallowable instruments that are not legislative instruments". All of these forms of law will simply be referred to as "secondary legislation". This is much simpler, but it does have implications for the way the House deals with such law in its rules. The Clerk noted these changes in his submission on the Legislation Bill, and once the bill passes, the bill's provisions will be reflected in his submission to the committee on the review of Standing Orders.

Technology and new opportunities

A driver of change that feels more energising is the need to stay relevant, to promote accessibility and transparency of parliamentary processes, and to engage the public with the work of Parliament. To this end, we need to be open to exploring new technologies and their application in the parliamentary context. However, the adoption of technological innovations has a flow-on effect, requiring the examination of parliamentary rules to ensure they reflect the new ways of doing things.

In 2013 the New Zealand Parliament launched a successful pilot to webcast select committee hearings. The Standing Orders Committee observed in 2014 that the pilot had increased the accessibility and transparency of parliamentary processes, and that a full roll-out should occur. The Office of the Clerk was unsuccessful, however, in its Budget bid for the financial provision

necessary for full implementation of webcasting, and the trial ended in 2015. However in 2017, the availability of more affordable technologies enabled the Office of the Clerk to implement a phased roll-out of livestreaming of public select committee hearings. Livestreaming has quickly become an expectation of members and the public—when a livestream is not working or a committee has decided not to stream a hearing (say, for individual privacy reasons), it is interesting how promptly the Office of the Clerk will receive complaints about the absence of a service that was not available at all until a couple of years ago.

This practice has been implemented without requiring immediate changes to the Standing Orders. However, rules around broadcasting, records and select committee procedures will need to be reviewed in 2020 to ensure that this development is reflected in the practices and procedures of the House. As the most cost-effective means for livestreaming was through Facebook Live, each select committee now has a separate Facebook identity. This has resulted in comments being posted by the public on these Facebook pages, including comments about hearings as they are taking place. Aside from the moderation required for these comments, the question arises about their status, and whether the comments themselves form part of proceedings. There may also be new opportunities to obtain information and feedback from the public, aside from the normal submissions process. On the other hand, improvements could be made so it is easier to access footage on-demand than is currently the case when using the Facebook platform. The House needs to be flexible enough to make the most of these engagement opportunities.

Small changes, big difference

While reviews can sometimes lead to significant reform, small and gradual changes can make a big difference too. During the most recent review, during the last term of Parliament, there was a focus on the involvement of responsible Ministers in the committee of the whole House debate, answering questions raised by members often on the technical detail or drafting of the bill. As Assistant Speaker at time, I was keen to encourage such engagement across the Table about the detail and meaning of legislation. Ministers who participated actively and constructively in this way almost always found the legislation proceeded more smoothly as a result. However, the Chamber's layout and rules about access to the floor of the House meant that advisers present to assist the Minister on policy, technical and legal matters could be

inside the Chamber but could not step down onto the floor of the House to speak to the Minister seated at the Table. This resulted in the awkward situation of advisers leaning perilously over to pass notes to the Minister, or the Minister having to lean haphazardly back to confer (the Minister in charge of a bill should remain at the Table when the bill is being considered, or otherwise should leave the Chamber). The Clerk brought this matter to the attention of the Standing Orders Committee in 2017, and proposed that the rules governing admission to the Chamber be reviewed to provide for easier communication between the member in charge of a bill and advisers. On becoming Speaker at the start of this parliamentary term, I was pleased to rewrite the Chamber rules so advisers can step onto the floor to provide advice to the Minister at the Table. This small and simple change has made a huge difference as advisers are now better able to fulfil their roles in the committee of the whole House stage, so advice can be provided to Ministers who wish to engage in debate on the provisions of bills.

Another small but significant change this parliamentary term has been the granting of access to the Chamber lobbies to the caregivers of members' children. In the New Zealand Parliament, infants of members are not regarded as 'strangers' in the House, and members can feed, hold and comfort babies in the Chamber. However, the issue arose about how to 'deliver' an infant to a member without the member having to leave the Chamber. Non-member caregivers were not able to enter the Chamber or even the Chamber lobbies to meet members wishing to hold or hand over their infants for care. I have now provided that caregivers can come into the lobbies and go to the door of the Chamber for this purpose. Again, this is a minor change, though it has made a significant difference for MPs juggling their demanding roles both as members and as parents.

Evolving procedures

Members are also drivers of change: they are well placed to identify when procedures are not working well and can feed these into the review process through various avenues. Sometimes these proposed changes might seek to address concerns members have about procedural tactics in the House. For example, in 2009 when the then Government sought to push through a controversial bill to completely reconfigure the governance of the Auckland region, and to do so under urgency and without select committee scrutiny, the then Opposition undertook

a determined and innovative filibuster to frustrate its progress. As many as 30,000 amendments were tabled, and the Government responded with its own tactics, such as a last-minute change to the bill's title to short-circuit the multitudinous Opposition amendments to clause 1. Long after the dust had receded, and members took stock of events during the subsequent review of Standing Orders, in 2011, it was agreed that such procedural battles were not ideal. New procedures were introduced to allow the presiding officer to group and select amendments, so members are encouraged to promote serious alternative proposals. Presiding officers also are more proactive in urging members to focus on debating issues, and thus extend the debate by drawing on relevant fresh material, rather than to seek to delay bills simply by bringing about endless votes on amendments. The Standing Orders Committee also recommended the introduction of extended sittings, which enable the Government to access additional House time with safeguards against the truncation of proper process that can occur when urgency is taken. It is really important to ensure the Opposition can filibuster when it considers this necessary to constrain the Government's ability to impose controversial reforms, while still enabling the Government to implement its popular mandate through legislation.

Parliamentary effectiveness, and what it means

Which brings us to the concept of parliamentary effectiveness. The overall point of reviewing the Standing Orders of the House is not just to tidy the words of the rulebook, or to make the House easier to administer and more compliant with statutes. The purpose of the exercise is to improve the effectiveness with which Parliament as an institution operates, in the public interest.

The effectiveness of the institution depends on your perspective: for the Government, the efficiency of the legislative process in converting policy into law is most important; for the Opposition, it is the ability to examine legislative proposals, challenge the Government's policies, and test alternatives; and hopefully for all participants the aim is for the country to be regulated by quality and up-to-date laws. In terms of financial scrutiny, the Government requires the appropriation of public money to run the State and implement its priorities, the Opposition needs good information and the ability to hold the Government to account, and all involved would profess a desire for good governance and improved prosperity. When it

comes to representation, Parliament is effective when members can raise issues of concern and interest to their constituents—freedom of speech is fundamental. But it is balanced by the need to exercise that freedom responsibly, and the House restrains members from debating matters that are before the court or suppressed by a court order, and generally seeks to impose a level of decorum on debate so as to maintain the dignity of the institution.

I could go on. The point is that parliamentary effectiveness is served when all of the different perspectives and interests can be advanced while remaining in balance. And that balance is to be found by the members themselves, exercising their political judgement and working together to find solutions that can obtain overwhelming support.

Chairing the Standing Orders Committee

As I mentioned earlier, the role of Chairperson of the Standing Orders Committee is invariably filled by the Speaker. I have served as a member of the committee in previous Parliaments and I look forward to chairing the next review, which starts later this year. Membership of the committee usually also includes the Leader of the House and Shadow Leader of the House, along with the senior whips or spokespeople of other parties. To find a consensus, there is necessarily a process of give and take by members around the table to find a balanced package of proposals.

The role of the Chairperson is key to all this. For the process to be successful, the committee needs a reasonable programme so there is time to consider proposals thoughtfully and weigh the various interests. Dialogue should be encouraged between members to arrive at an overall package that members will support and advocate for in caucus meetings. It is important that serious proposals are not dismissed out of hand at the hint of an objection, but rather an opportunity is provided to talk through the issues so agreement can be reached. When there is disagreement, the Chairperson can work with members to identify the particular concerns and problems, with a view to identify possible ways forward. Of course, this is part and parcel of good chairing anyhow, but it is crucial when it comes to getting meaningful outcomes from a consensus-based process in the partisan world of Parliament.

Ideas for upcoming review of Standing Orders

As a member of the committee I also have the opportunity to put forward ideas. With the next review approaching, I am keen to explore a number of proposals with the committee.

Promote family-friendly initiatives

As you all know parliamentary life poses unique challenges, particularly for members' families, with long hours, extended periods away from home and increased public profile placing pressure on family life. While some of these challenges, like the increased profile that comes with public office, are outside our control, there are a number of things we can do to make Parliament more family-friendly.

In the 2017 review the Standing Orders Committee considered how we might find a better balance of work and family life in the parliamentary setting, including promotion of more effective and predictable use of House time and provision of support for members needing to care for young children or other dependants. It was agreed that the Clerk of the House, in collaboration with the General Manager of the Parliamentary Service, would consult members on how to better accommodate family needs in parliamentary life. The ideas and information shared by members' in this consultation will feed into the upcoming Standing Orders review in 2020, as well as other reviews that are being carried of the provision of services to members and parties.

As the diversity of our Parliament increases we have more members with young families and, in particular in the current Parliament, members with infant children. Since 2014, the Standing Orders have included a provision for the Speaker to grant members permission to be absent without affecting the proxy vote limit for parties. This has been an extremely positive development, allowing members to take periods of absence akin to parental leave. During the current parliamentary term, a number of members have welcomed new children into their families and, as far as I am aware, all have taken some parental leave, both mothers and fathers. An example of this was the well-publicised six-week leave period taken by the Prime Minister, Rt Hon Jacinda Ardern, for the birth of her daughter Neve in 2018. The ready provision of leave for members on the arrival of a child is a significant step, though there is much still to do to make the juggle of family and political life easier.

Ultimately, there is a case for considering changes to electoral law, to provide for a more flexible approach while ensuring continuity of representation. Under the Electoral Act 1993, there is no ability for membership of the House to be paused and then resumed for any purpose, such as to enable a period of parental leave. While such an idea seems odd for a person used to the Westminster style of representation, it has already been implemented in some European parliaments, such as Denmark, where there is provision for substitute MPs to be appointed. And parliaments of a similar tradition to our own have begun to take up this idea: only last month (June 2019), the Canadian House of Commons has unanimously adopted rules for members to be eligible for 12 months of parental leave on full pay.

In New Zealand, while there may be interest in such solutions, any statutory changes would be beyond the remit of the review of Standing Orders. However, our MMP electoral system potentially could equip us to make temporary appointments from party lists as they stood at the most recent general election (which is the method used for filling list-seat vacancies). While the Standing Orders Committee could not effect such a change through the House's rules, it could bring this matter to the House's attention in the form of a recommendation addressed to the Government.

In terms of Parliament's internal arrangements, it will be interesting to see what emerges from the consultation with members, so we can consider a package of family-focused changes that will make a significant difference.

One option is to consider adjusting the House's sitting hours. The New Zealand Parliament currently sits approximately 30 weeks per year, with the majority of members travelling from outside the Wellington region to attend. The House sits on Tuesdays and Wednesdays from 2 pm to 10 pm (with a 1.5 hour dinner-break from 6pm) and on Thursdays from 2 pm to 6 pm.

Evening sittings are not family-friendly—or friendly in any sense—for members or for the staff who support the House. However, any ideas adjust House hours would not be straightforward. While reducing evening sittings might be helpful for the few Wellington-based members, it might have an adverse effect on those from outside Wellington if the alternative were longer or more frequent sitting weeks.

An idea to consider could be for the House to start earlier in the day and sit, say, from 9.30 am to 1.00 pm, allowing for an earlier finish. Care would need to be taken so that business in the House did not clash with meetings of the select committees that had considered that business. If the hours were adjusted in this way, extended sittings would take place in the evening, rather than in the morning as is currently the case, but provision could be made for votes to be deferred until the start of the next sitting day so members could leave the precincts. Consideration could be given to enabling select committees to meet in the evening, but with a finish time no later than 9 pm.

Alternatively, the dinner break could be shortened or dispensed with altogether. Any such option would need careful consideration of how it would impact on other aspects of parliamentary life, such as attendance at dinner-time events. But it would be worth working these issues through so as to avoid the current late-night finish, and potentially to enable members who live outside the Wellington area (particularly those in more remote localities) to return home sooner to their families and constituencies. Other options include relaxing proxy-vote limits at certain times, so more members can leave the parliamentary precincts sooner; providing more meaningful opportunities for family members to travel to be together; or providing additional support to reduce workload. There are many more ideas that are emerging, and I look forward to exploring them with the committee.

By making Parliament more family-friendly we can create the best environment for members to participate in proceedings and fulfil their representative functions. Family-friendly initiatives can also act to promote diversity of our elected members, as people who might otherwise have been put off standing for election, because of what the role entailed, might now consider it an option.

Rewards for good pre-introductory legislative process

In the last review of Standing Orders, it was agreed that it would be helpful to find ways for the House to reward the use of inclusive and robust pre-legislative processes by the Government. The aim would be to reverse the incentives, driven by the short electoral cycle, for Governments to hasten policy processes so bills can be introduced with enough time to be passed before the next election comes around. The Clerk of the House also indicated his

intention to collaborate with relevant central agencies to identify ways that pre-introductory policy and consultation processes by Government agencies could align more closely with the House's consideration. This work would inform the development of proposals for rewarding good pre-legislative policy-making.

I believe that a policy development process that includes good cross-party consultation can only lead to better legislative outcomes, greater support for proposals, and smoother progress of bills through the House. Comprehensive pre-legislative processes that include public consultation arguably result in greater legitimacy of legislation. In turn, this could be recognised and rewarded by House procedures, for example, the provision of additional sitting time without the usual ban on simultaneous select committee meetings. I would like to explore this and other ideas for promoting inclusive policy processes.

Limits on use of urgency

A Minister can move, without notice, a motion to accord urgency to certain business. There is no amendment or debate on the question but the Minister must inform the House with some particularity of the circumstances that warrant the claim for urgency. Urgency can be used to progress legislation through multiple legislative stages, including bypassing select committee scrutiny altogether.

While I acknowledge there are some circumstances that could require urgent legislative action to be taken, the Government should be restrained from using urgency. I believe that rushing bills through under urgency increases the risk of poor legislative outcomes, including inadequate policy-making and scrutiny, lack of public input, drafting errors, and flawed understanding by members of the legislation they are considering.

During the last review, I proposed that urgency be accorded only when a minimum of 75 percent of members vote for the motion, and that the same majority be applied to other decisions under urgency, including amendments to bills. The proposal was not accepted at the time, but I would like to discuss it further during the coming review. Curbing the use of urgency in this way would mean it could be resorted to only when there was general agreement that the circumstances warranted it. Special allowance could be made for urgency to pass Budget

legislation, either as an automatic right for the Government or if the Speaker agreed that the legislation, by its nature, needed to be passed quickly after the Budget was delivered (for example, to implement a change to excise tax with immediate effect). A further option could be to allow for urgency to be taken within the first 100 days after the opening of Parliament, for the Government to fulfil particular election promises.

As part of this proposal I also want to focus on a mechanism to discourage the bypassing of the select committee process under urgency. I believe that even a truncated select committee process is better than no select committee scrutiny at all. The Government could still utilise extended sittings for additional hours to progress legislation and extraordinary urgency would still be available at the discretion of the Speaker.

Availability of bills for debate

A further idea is to shorten the stand-down time for bills before they are available for debate, following their introduction and the presentation of select committee reports. The current automatic delay dates back to 1995, when the Standing Orders Committee recommended that a bill not be available for debate until the third sitting-day after the bill's initial release or select committee report. At the time, the committee felt there should be a notice period to allow members to study and consider the policy and principles of the bill, or the changes recommended by the select committee, prior to debating and voting on the bill at its next stage (1995 report, I.18A, p 55). But back in those days it took a while for copies of bills to be circulated around the country by the Government Printing Office. Now that copies of bills become instantaneously available online, it may be time to consider whether the three-day stand-down period is still apposite.

Better debate

I am interested in relaxing some of the rules for debate in the House, so that members are engaging with each other rather than reciting speeches. This could involve softening the tradition that members address the House through the Chair and avoid the use of the second person. Another option could be to encourage greater use of 'yielding', to promote

constructive exchanges across the floor—while this technically is permissible already, it hardly ever occurs.

It is really important for members to have opportunities to debate the big issues, aside from those that arrive in the House through the passage of legislation and financial cycles. An idea is to have regular structured debates on topics such as foreign affairs, or longer-term issues like climate change. The Business Committee already can arrange such debates, but it does not do so often; it would be good to develop an expectation that debates of this sort should take place at least once every month or sitting period.

Select committee effectiveness

For most Parliaments, the effectiveness of the committee system is key to the overall performance of the legislature. There are always improvements that can be made to enable committees to deal more effectively and robustly with the business in front of them, and to engage better with the public. Along with other members, I am concerned that select committee scrutiny is not always satisfactory. Some committees are too large, which means that members generally are not given sufficient time each to follow sustained lines of questioning. This means that hearings of evidence, and particularly the examination of Ministers and State sector chief executives, can be overly superficial. Moreover, members may feel less compunction to prepare and engage when their contribution is diluted by a large committee membership. Large committees also mean members may tend to be on more than one committee, thus increasing their workload, and there are more logistical difficulties in deploying members to cover absences and substitutions for particular items of business.

Ideas that I would like to discuss with the Standing Orders Committee include:

- Reducing select committee membership, for instance to 5 members, with additional non-voting membership as of right, with 2 non-voting members for parties of 25 or more members, and 1 non-voting member for parties with fewer than 25 members.

- Enabling select committees to meet outside Wellington, as a matter of course. Committees currently require permission from the Business Committee to meet in other

parts of the country on sitting days. I consider that the practice of holding select committee meetings outside Wellington improves the reach and relevance of Parliament, and should be facilitated.

- Resurrecting the former Public Accounts Committee or a similar committee to conduct technical scrutiny of public expenditure, separate to the broader policy interest of the Finance and Expenditure Committee.

- Allocating the roles of chairperson and deputy chairperson of select committees on a proportional basis, with Opposition chairpersons guaranteed for the Finance and Expenditure Committee (or Public Accounts Committee) and for the Governance and Administration Committee.

Conclusion

Some of these ideas are revolutionary—in the New Zealand context, at least—while others are more incremental. It is important to take stock and provide an opportunity for fresh thinking. Parliament as an institution should engage in critical self-review and continuous improvement, just as we expect from the public agencies that the House scrutinises.

My motive in presenting this paper is to establish the regular review of parliamentary rules and procedures as a good practice, and to embed it in our culture so that it, too, becomes a tradition of long-standing. I would like to leave you with these key messages:

- The rules of Parliament are constitutional in nature, and should not be amended through a majoritarian approach; consensus or overwhelming support should be sought for any changes.

- A regular cycle of review mitigates the potential conservatism that arises from the need for broad agreement.

- The need for cross-party agreement means the role of the presiding officer is critical to the success of the process: providing a context that welcomes the exchange of ideas, working with parties to identify concerns, facilitating constructive negotiations to address

them, mediating where there is disagreement, and bringing all parties together to settle on an overall package that is agreeable.

- The aim for the review should be to enhance the effectiveness of Parliament, balancing the different perspectives of the Government, the Opposition and other non-Government parties, participants in parliamentary processes, and the public (though it is in everybody's interests for the legislative process to result in good law!).

As Speaker, I want to champion the process to improve Parliament, and to ensure it is an institution that is responsive, resilient and relevant long into the future.