

# Parliament's Watchdogs — New Zealand's Officers of Parliament

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There is no statutory definition of or established criterion to identify an officer of Parliament.<sup>1</sup> The authoritative guide to parliamentary procedure and practice, *Erskine May*, provides a description of the applicability of the term but does not offer a definition.<sup>2</sup> Four categories emerge from the *Erskine May* description of an officer of Parliament: elected officers such as the Speaker; Crown appointed officers such as the Clerk of the House; senior staff appointed by the Speaker; and statutory officers such as the Auditor-General.

The concept of officers of Parliament has evolved beyond this description in the twentieth century to apply to new types of constitutional watchdogs.<sup>3</sup> In the Westminster-style Parliaments, the term has come to imply a special relationship of accountability to Parliament and an independence from the executive.<sup>4</sup>

This paper sets out the officers of Parliament in New Zealand and looks at the different ways the defining notions of holding the executive to account and protecting individual rights are manifest in the various offices. It then looks at the role of an officer of Parliament more generically seeking criteria for determining whether a particular agency should be created as an office of Parliament. Further it considers the soundness of New Zealand's approach to classifying them and appropriate grounds for creating them. The needs of the office-holders are also considered, particularly regarding independence from control by executive government. The paper also touches on the practical issues associated with each officer of Parliament's discharge of its functions.

Acknowledgement needs to be made of the research into New Zealand's officers of Parliament by Robert Buchanan (Barrister and Solicitor).<sup>5</sup> The paper is also informed by my experience as the Clerk of Committee for New Zealand's Officers of Parliament Committee of the 48th Parliament.

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### *Officers of Parliament in New Zealand*

In New Zealand, the term ‘officer of Parliament’ follows the *Erskine May* description and denotes a statutory office-holder appointed by the Governor-General on the recommendation of the House of Representatives to perform independent functions on its behalf. The offices of Parliament are generally independent accountability agencies created to provide a check on the arbitrary use of power by the executive and to protect the various rights of the individual. An officer of Parliament position should operate under conditions implied in its being an arm of the legislative branch of the State, such as being outside the public service and not subject to the executive’s control.<sup>6</sup>

The concept of an officer of Parliament first appeared in New Zealand legislation in 1962 with the creation of the Ombudsman. A second officer of Parliament was created in 1976 when the Wanganui Computer Centre Privacy Commissioner was established. The office was abolished on 30 June 1993. A third officer of Parliament, the Parliamentary Commissioner for the Environment, was created on 1 January 1987, and the Controller and Auditor-General became a formal officer of Parliament position on 1 July 2001.<sup>7</sup>

While the notions of holding the executive to account and protecting individual rights underpin the officer of Parliament concept, they are manifest in different ways and degrees according to the particular office involved. For example, the main function of New Zealand’s Controller and Auditor-General is to hold the executive to account for its financial performance and its non-financial service performance. The fact that the Auditor-General reports to Parliament demonstrates that Parliament, and not the Crown, controls public expenditure, and that the Government is responsible and accountable to Parliament for that expenditure. On the other hand, because the Ombudsman is primarily concerned with the protection of individual rights, the position is seen as an enhancement of the representative function of members of Parliament, and of a citizen’s right to petition Parliament. The Parliamentary Commissioner for the Environment seeks to hold the executive accountable for its environmental policies and actions, and acts as a policy reviewer outside the public service and reporting on it.<sup>8</sup>

There remains a lack of definition regarding the term ‘officer of Parliament’, and a lack of consistency in its application — both in New Zealand and between other Commonwealth jurisdictions. New Zealand has however attempted to define the characteristics of officers of Parliament, describe their functions, and formalise the relationship between Parliament and the officers, particularly regarding funding and accountability.

It is of note that the officer of Parliament concept has emerged in New Zealand during the same era in which new accountability agencies were established as checks on the expansion of Government activity. Most of these agencies, however, were established as Crown entities,<sup>9</sup> rather than as offices of Parliament. New

Zealand has reserved the status of officer of Parliament to a small group of agencies.

### *Understanding Role of an Officer of Parliament*

Before 1989, the powers, duties, and functions of an officer of Parliament in New Zealand were determined by the individual statutory provisions for each position. The general rules that governed the funding arrangements for offices of Parliament and the relationship between an officer of Parliament and Parliament, were not explicitly defined.

In 1989 New Zealand's Finance and Expenditure Select Committee conducted an inquiry into officers of Parliament. In its report to the House, the committee noted that officers of Parliament had been created *ad hoc*, and that a formula was needed to define, protect, and strengthen their position.<sup>10</sup> There appears to have been no systematic thinking until then about why a non-elected statutory officer should be designated an officer of Parliament, nor about what this status really meant in constitutional or practical terms.

### *Finance and Expenditure Committee Criteria*

The 1989 report of the Finance and Expenditure Committee sets out five criteria to for the creation of an officer of Parliament — criteria from which the practical workings of the offices now flow. The committee considered that an officer of Parliament must be created only to provide a check on the arbitrary use of power by the executive; that an officer of Parliament must discharge only functions which the House itself, if it so wished, might carry out; that an officer of Parliament should be created only rarely; that the House should, from time to time, review the appropriateness of each officer of Parliament's status as an officer of Parliament; and that each officer of Parliament should be created in separate legislation principally devoted to that position.<sup>11</sup>

The committee agreed that the primary function of an officer of Parliament was to act as a check on the executive, as part of Parliament's constitutional role of ensuring the accountability of the executive.

While the 1989 FEC inquiry produced a set of criteria for creating an officer of Parliament, the committee chose not to standardise the features of the various offices of Parliament. This perhaps explains why the committee recommended that each officer of Parliament should be created in separate, dedicated legislation. Nevertheless, the committee considered that Parliament needed a larger role in the appointment, funding, and accountability of officers of Parliament. While the offices' operations expenses had until then been funded by separate parliamentary appropriations, the appropriation processes were essentially the same as those that applied to Government departments — only the salaries of the office holders were protected by a permanent appropriation.

The committee considered a proposal to extend the permanent appropriation to cover operational funding as well; this was seen by the incumbent officers of Parliament as the only way to ensure independence from the executive. The committee did not accept this recommendation, preferring instead a mechanism to enable the House to approve each office's annual vote in the Estimates of appropriations process. The vehicle for this approval would be a special select committee (the Officers of Parliament committee), chaired by the Speaker of the House and comprising three members from each side of the House. The committee would also have the task of recommending the appointment of officers of Parliament and holding each officer accountable for their performance and the effective discharge of their functions.

### *Officers of Parliament Committee*

Undoubtedly the 1989 report of the Finance and Expenditure Committee set in train far-reaching reforms of officers of Parliament. The establishment of the Officers of Parliament Committee (as it is now called) was only a starting point. The model continues to evolve.

Today the Officers of Parliament Committee has multi-party representation and endeavours to function in a non-partisan manner. The Speaker, through the Officers of Parliament Committee, is required to consult with all of the political parties represented in the House and implement an appropriate process for the appointment of new officers of Parliament. The committee revised the appointment process in 2002.<sup>12</sup>

### *Funding*

As for funding of the offices of Parliament, the Public Finance Act 1989 was amended following the Finance and Expenditure Committee's inquiry to provide for the House to recommend to the Governor-General by way of an Address the Estimates to be included for each officer of Parliament in the annual Appropriation bill. This, in effect, is a pre-Budget approval of each office's appropriations. It invests the House with the ability to make policy decisions on desired service provision and funding. Further amendments to the Public Finance Act in 2004 have improved this process. The current practice is as follows:

The Minister of Finance initiates the annual funding process with the officers of Parliament by asking them to submit directly to the Officers of Parliament Committee an estimate of the expenses and capital expenditure to be incurred by their offices for the next financial year and any top-up funds required for the current financial year. (*Before this process, each officer has presented to the House their statement of intent as required under the Public Finance Act 1989. In the case of the Controller and Auditor-General, this information is incorporated into the officer's draft annual plan prepared for presentation to the House under the Public Audit Act 2001.*)

The officers' budget bids are submitted to the Officers of Parliament Committee for consideration and report. The committee hears evidence from the officers themselves (in private) and asks Treasury for advice on the appropriateness of the budget bids. Treasury also advises the committee on the criteria issued by the Cabinet within which Budget bids are to be considered. The Officers of Parliament Committee reports to the House which, in turn, recommends the Estimates by way of Address to the Governor-General.<sup>13</sup>

### **Performance and effectiveness**

In its 1989 report the Finance and Expenditure Committee recommended that the Officers of Parliament Committee should be responsible for holding each officer accountable for their performance and the effectiveness of the way they discharged their functions. However, in 1995 the Standing Orders Committee divided the functions hitherto undertaken by the committee, so that it then focused only on annual budget setting, functions relating to the appointment of auditors (of each office of parliament), the creation of officers of Parliament, and the development of codes of practice. The reviewing of the spending and the performance of the officers of Parliament was to be carried out by the relevant subject select committees.<sup>14</sup>

### ***Scrutiny of Reports***

Officers of Parliament have no powers to enforce their findings and therefore rely on the House to bring about the improvements or remedies sought in their reports. This mechanism ensures that an officer of Parliament cannot usurp the elected members of the House. The question arises, however, of whether this independence of officers of Parliament reduces their effectiveness. A mechanism for following up officers' reports appears to be lacking in but desired by most Commonwealth jurisdictions.

In its 1989-inquiry report the Finance and Expenditure Committee recommended that all reports of officers of Parliament be referred to the Officers of Parliament Committee for consideration and report to the House. This did not occur however until late in 2008.

In 2007 New Zealand's Officers of Parliament Committee expressed concern to the Standing Orders Committee that, upon being presented to Parliament, reports from the Controller and Auditor-General, the Ombudsmen, and the Parliamentary Commissioner for the Environment did not stand referred to any particular subject select committee for consideration. Any select committee examination of these reports was therefore *ad hoc* and, because committees had to invoke their inquiry function to examine an officer of Parliament report, scrutiny of them had become infrequent.<sup>15</sup>

The Standing Orders Committee subsequently recommended to the House a change to its Standing Orders (effective from 4 October 2008) to provide for reports from officers of Parliament to stand referred as applicable to the Finance and Expenditure Committee (Controller and Auditor-General), the Government Administration Committee (Ombudsman), or the Local Government and Environment Committee (Parliamentary Commissioner for the Environment). This practice was instituted accordingly. The relevant committee can either examine the report itself or, if it considers that the subject area of the report is primarily within the terms of reference of another select committee, refer the report to that committee for examination. A committee to which a report stands referred considers whether to request a briefing from the officer of Parliament and, if applicable, from Government or local authority officials.

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; the Ombudsmen, however, do have the power to request a response. The involvement of select committees is seen as a way to encourage efforts to implement or respond to the recommendations of officers of Parliament, particularly as a select committee may itself make recommendations to the Government in the light of the report, and recommendations addressed to the Government require a response.<sup>16</sup>

### *Classification*

The FEC criteria provide an aspirational model, which can be applied as a test when investigating the creation of an officer of Parliament. Uncertainty remains, however, as to whether these criteria constitute a sound approach to classifying an agency as an office of Parliament. This is particularly relevant to agencies that, while not necessarily carrying a function of the House, need a degree of separation and independence from the Crown to be effective. Such agencies are likely to be those that advocate for the interests of citizens against those of the State — and should therefore not depend on the Crown for appointment and funding.

The main effects of making an office an officer of Parliament are as follows:

The officer is appointed by the Governor-General on the recommendation of the House;

The officer cannot be removed from office except by the Governor-General on an Address from the House; and

The institutional needs of the officer of Parliament are determined by Parliament, also by means of an Address to the Governor-General.

In New Zealand officers of Parliament have been created only rarely, despite calls for agencies such as the Human Rights Commissioner, the Children's Commissioner, the Commerce Commission, and the Independent Police Complaints

Authority to be made officers of Parliament. Similar agencies, however, have been created officers of Parliament in other jurisdictions.

In the United Kingdom, the Nolan reforms<sup>17</sup> established a number of ethical regulatory bodies with varying relationships with Parliament. In Scotland, seven parliamentary officials have been established, including a commissioner for children and young people.<sup>18</sup> In Canada, there are no agreed criteria for an office of Parliament. Agencies such as the Public Service Commission and the Canadian Human Rights Commission<sup>19</sup> have been established *ad hoc*; the main criterion for making the office holders of these agencies officers of Parliament was their perceived independence from executive government. The classification issue has not been so prominent in Australia, where the Ombudsman and the Auditor-General are the only officers of the Commonwealth Parliament.<sup>20</sup> However, the issue has arisen at the Australian State Parliament level — in 2006 it was the subject of a report of the Public Accounts and Estimates Committee of the Parliament of Victoria, which recommended a framework and set of criteria similar to those used in New Zealand.

One way to consider this issue is perhaps from a parliamentary perspective, focusing first on the factors that would persuade a Parliament to entrust an institution to carry out fairly coercive functions on its behalf. Then, the needs of the office holders might be considered, particularly what statutory measures might be necessary to preserve their independence and prevent interference by the executive.

Buchanan argues that it is too simplistic to confer officer of Parliament status on an agency purely to secure independence from the executive for an agency that scrutinises the executive or holds it to account.<sup>21</sup> One of the functions of a Parliament is to scrutinise and control the Government,<sup>22</sup> and it is easy to conclude that any instrument of Government that seems to undertake a parliamentary-type role should sit within the parliamentary realm. This, however, is to ignore the role of the judiciary, and the practices that have emerged to allow certain office-holders and agencies to operate independently within the executive branch of Government despite their functions appearing to run counter to the interests of the Government — for example, New Zealand's Children's Commissioner, Commerce Commission, and the Independent Police Complaints Authority. Conventions and political disincentives surround the operation of such agencies; for example, the Government must consult other political parties about the appointment of some of these officers. Perhaps, as Buchanan suggests, these conventions should be strengthened before jurisdictions such as the United Kingdom look to the officer of Parliament model to allow an agency to be part of executive government while operating independently from the Crown.

Statute also provides a means of protecting the independence of such agencies. New Zealand's Crown Entities Act 2004 now provides for the appointment, governance and accountability of Crown entities and for the categorisation of Crown entities

into groups. One of the categories, independent Crown entity (ICE), covers entities that because of their functions require protection from Government direction and arbitrary removal from office. This has reinforced the independence of entities such as the Independent Police Complaints Authority and the Children's Commission, and provides a statutory framework for their dealings with the Crown. Buchanan suggests that the Crown entity reforms have in effect dealt with the issue of whether offices should be officers of Parliament.

### *Funding*

Nevertheless, an issue that presents a challenge for Crown entities, particularly the ICEs, is that they are funded through departmental appropriations over which the executive has full control. The funding system of officers of parliament by-passes executive control and places the power to make policy decisions about the officers' funding in the hands of the House itself. Buchanan suggests that Crown entities might therefore seek parliamentary status on this ground.

While plausible, this notion is not consistent with the FEC criteria, according to which the funding process for officers of Parliament is determined by the House because the functions to be funded are those that the House itself, if it wished, might perform. It is therefore appropriate that Parliament determine the level of activity it thinks appropriate for the performance of these functions by its officers, having regard to advice from the executive about fiscal constraints and matters of efficiency. The House is not in a position to make such decisions about entities that do not perform functions of a parliamentary nature.

Buchanan argues that the status of 'officer Parliament' should not be one that other entities should aspire to, as status is 'an expression of form following function'. New Zealand's Crown entity reforms may provide a useful benchmark for classification, by perhaps legitimising the place of other kinds of accountability agencies within the executive; and thus giving further weight to the FEC criterion that the purpose of an office of Parliament is to exercise functions of a parliamentary nature. The Crown entity reforms appear to have provided clarity to this debate, and have allowed one of the FEC's criteria to be upheld – that an officer of Parliament should be created only rarely.

While New Zealand may now have the means by which to understand the defining characteristics of an officer of Parliament and the reasons for the status being conferred, recent work in the United Kingdom, Canada, and the State of Victoria indicate that the meaning of and significance of the status of officer of Parliament remains an issue in other jurisdictions. Significantly the 2003 progress report from Gay and Winetrobe refers to an *ad hoc* approach still being taken in a number of other jurisdictions.



### *Independence in Practice*

Like any Government agency, to be able to function effectively, an officer of Parliament needs resources and the support of adequate institutional arrangements. The way they are funded can raise fundamental problems for their independence.

There are various measures for assessing the independence of an officer of Parliament. Thomas lists five indices of independence:

- the nature of the agency's mandate;
- the provisions regarding appointment, tenure, and removal;
- the processes for deciding budgets and staffing;
- whether the agency is free to identify issues for study and whether it can compel the production of information; and
- reporting requirements and whether its performance is monitored.<sup>23</sup>

The study by Gay and Winetrobe in 2003 used similar measures but also focused on institutional architecture (including statutory status and protections), independence from Parliament, and accountability (or more specifically a means of assessing performance) outside the parliamentary sphere.

New Zealand tends to score well on most of *Thomas's* indices of independence. It has a robust framework for creating and appointing officers of Parliament, which builds on the FEC's criteria. New Zealand's officers of Parliament have strong powers to access information, discretion in setting their work priorities, and freedom to report to Parliament as and when they choose. Accountability arrangements are also reasonably robust, and recently strengthened by the change to Standing Orders requiring all reports of the officers of Parliament presented to the House to be referred automatically for select committee scrutiny.

Nevertheless, the relationship between officers of Parliament and the House in New Zealand has not been without incident. In the early 1990s the House refused to reappoint an Ombudsman because the Government disagreed with some of the Ombudsman's recommendations made in a report to the House. It is understood that this was a major departure from the convention of impartiality and directly challenged the concept of independence.

The issue of funding has also been an area of concern for the officers of Parliament in the 1990s, specifically the Ombudsman and the Parliamentary Commissioner for the Environment. The Officers of Parliament Committee did not agree to requests from these officers for additional funding to their great disappointment and frustration to the then officers of Parliament. Upon leaving the office of Chief Ombudsman in 2003, Sir Brian Elwood said:

An effective Ombudsmen's office requires adequate funding in order to fulfil its legislative mandate. ... an under-resourced office is unable to carry out [its] mandate effectively. It risks becoming part of a problem — namely an

unsatisfactory interaction between a citizen and the agencies of Government – rather than a means by which that relationship can be improved an injustice avoided when disputes or misunderstandings arise.<sup>24</sup>

This history is instructive because it shows that even though New Zealand by international standards has well-defined frameworks in which to develop working relationships between officers of Parliament and the House, a relationship based on a sound understanding of each other's needs is not guaranteed.

### *Resourcing*

Fortunately, the relationship between New Zealand's officers of Parliament and the House has improved since the 1990s, in part due to the better business planning required since the 2004 reforms of public-sector reporting requirements.<sup>25</sup> More robust planning of resource requirements and analysis of the cost of producing the necessary output enable the Officers of Parliament Committee to make informed decisions about appropriate funding for the various offices of Parliament.

### *Involvement in an Officer's Annual Work Programme*

Alongside the funding issues of the 1990s, there was considerable debate about the involvement of the House in an officer of Parliament's annual work plan, particularly during the development of the Public Audit Act 2001. It is understood that the disagreement was between Treasury and the Office of the Auditor-General, and concerned the mandate of the Controller and Auditor-General – whether an independent parliamentary function should be given effect in the machinery of government, and particularly how an officer of Parliament should be held to account for the performance of their functions.

The Treasury apparently considered that a parliamentary power to direct an officer of Parliament regarding their work programme complied with both FEC's 1989 criteria for creating an officer of Parliament and the new approach to public sector accountability given effect by the Public Finance Act 1989. Treasury argued that exempting officers of Parliament from any form of direction was unacceptable and would allow them to escape accountability, and that if they were not to be open to direction by the executive (in accordance with the FEC criteria ) then Parliament itself should have the power to direct them.

Indications are that the Treasury view prevailed. Section 36 of the Public Audit Act requires the Controller and Auditor-General to consult the House annually about his or her discretionary work programme and then indicate in the completed work plan any comments about it made by the House and its committees. In December 2002, the Finance and Expenditure Committee made a special report to the House outlining the parliamentary process for consultation by the Controller and Auditor-General with the House and its committees on his or her work programme.<sup>26</sup> This change is significant; Buchanan says that it reflects a constitutional compromise

about how the way the FEC's criteria should mesh with the imperatives and application of new public management.

It is understood that New Zealand's officers of Parliament do not consider the statutory consultation requirements to be too onerous or raise any real concerns about their independence from the political process. However, it remains critical to the continued workability of this process that the officer should have the final say over the content of his or her work programme. Neither are officers of Parliament concerned about political interference in the operational aspect of their work. It remains important to the officers of Parliament, however, that politicians and the Government recognise their officer of Parliament status and function, and their right to express a view.

Further, it is understood that officers consider it important for their independence that Parliament plays its part in the relationship by supporting the officers and their role, taking their reports seriously, and avoiding bringing them into political debates.

### *Accountability*

Buchanan says it is accepted by all of New Zealand's officers of Parliament, past and present, that provided officers' independent judgement is not challenged, independence does not exempt them from accountability to the House for the stewardship of public funds and for the office's performance. According to Buchanan, an officer's independent judgement covers the forming of opinions, the issuing and content of reports, the selection of work, and the exercise of any statutory discretions. Buchanan suggests that the FEC's criteria for defining an officer of Parliament would be improved by the inclusion of these distinctions.

It is understood that New Zealand's officers of Parliament consider the current accountability regime to be appropriate. There are, however, different perspectives on the way the Officers of Parliament Committee should provide parliamentary scrutiny in practice. The current practice is for the committee to review all the officers' statements of intent as a prelude to funding decisions, while the end-of-year financial review is undertaken by the relevant subject select committee. This approach is considered appropriate by both the House and the officers of Parliament because it is presumed that the focus at year end on performance rather than the exercise of independent judgement lessens the need for non-partisan scrutiny by a dedicated body such as the Officers of Parliament Committee.

The opposing view is that the accountability of officers of Parliament should be assured through the same committee that approves the funding of their work programmes. This would minimise the risk that a more politically partisan subject select committee might be overly rigorous in its examination of the performance of an officer of Parliament in such a way as to undermine the independence of the office.

In New Zealand, the codes of practice for the Office of the Controller and Auditor-General and the Parliamentary Commissioner for the Environment<sup>27</sup> mitigate this risk by ensuring that all committees and members understand the independence issue. There is merit nevertheless in the financial review function being undertaken by a strengthened Officers of Parliament Committee, which would understand the independence issues more intimately than a subject select committee could be expected to.

While the accountability of officers of Parliament should not be at the expense of their independence, a balance is needed between that independence and accountability. Officers of Parliament need to be independent from the executive and also free from direction and political interference by the legislature. The New Zealand model in which the spending and performance of the officers of Parliament is reviewed by a separate subject select committee was established over 14 years ago. Perhaps it is time to review the relationship between the officers of Parliament and the Officers of Parliament Committee to see whether this model remains relevant and whether changes to this relationship might improve the overall effectiveness of the officers of Parliament.

### *Conclusion*

New Zealand has benefited from the set of criteria devised by the Finance and Expenditure Committee in 1989 for consideration when investigating creating an officer of Parliament. Since 1989, the framework has evolved sufficiently to allow New Zealand's officers of Parliament to operate effectively in the era of new public management and still preserve their independence. However, independence has not exempted them from accountability to the House for the stewardship of public funds and for their offices' performance. New Zealand's officers of Parliament seem to have accepted being held accountable in this way as long as their independent judgement is not challenged, specifically their forming of opinions, reports, selection of work, and exercise of any statutory discretions. The FEC's criteria along with the definitions of other accountability-type agencies established in New Zealand by enactment of the Crown Entities Act 2004 have gone a long way to clarifying the understanding of the role of an officer of Parliament. ▲

### **End Notes**

<sup>1</sup> David McGee, *Parliamentary Practice in New Zealand*, Third edition, 2005, p. 70.

<sup>2</sup> Erskine May, *Parliamentary Practice*, Twenty-third edition, 2004, pp. 245–7.

<sup>3</sup> House of Commons Library, *Officers of Parliament —A Comparative Perspective*, Research Paper 03/77, 2003, p. 8.

<sup>4</sup> *ibid.*

<sup>5</sup> Robert Buchanan, Seminar paper on *The Status and Workings of Officers of Parliament in New Zealand*, unpublished.

<sup>6</sup> David McGee, *Parliamentary Practice in New Zealand*, Third edition, 2005, p. 70.

<sup>7</sup> *ibid.*

- <sup>8</sup> See the website [www.pce.govt.nz](http://www.pce.govt.nz), accessed 1 March 2009.
- <sup>9</sup> Crown entities are bodies corporate established by, or under, an Act. There are three types of Crown entity: *Crown agents* must give effect to government policy when directed by the responsible Minister; *Autonomous Crown entities* must have regard to Government policy when directed by the responsible Minister; *Independent Crown entities* cannot be directed on Government policy. Such entities operate at arm's length from Ministers, either because they are quasi judicial or because they must operate, and must be seen to operate, independently from Ministers.
- <sup>10</sup> New Zealand Parliament, Finance and Expenditure Committee, *Inquiry into Officers of Parliament*, 1989, I. 4B, p. 5.
- <sup>11</sup> *ibid.*, pp. 67.
- <sup>12</sup> New Zealand Parliament, Officers of Parliament Committee, *Report on the Procedures for the Appointment of an Officer of Parliament*, 2002, I. 15A.
- <sup>13</sup> The House is not bound to follow the Officers of Parliament Committee's recommendations but invariably it does so — there is an established convention that the Crown will include the recommended amounts in the Appropriation Bill since Ministers have been party to the Address from the House.
- <sup>14</sup> New Zealand Parliament, Standing Orders Committee, *Report on the Review of Standing Orders*, 1995, I. 18A, p. 42.
- <sup>15</sup> New Zealand Parliament, Standing Orders Committee, *Review of Standing Orders*, 2008, I. 18B, p. 40.
- <sup>16</sup> New Zealand House of Representatives, Standing Order 248(1) provides that the Government must, not more than 90 days after a select committee report has been presented, present a paper to the House responding to any recommendations of the committee that are addressed to it.
- <sup>17</sup> The Nolan reforms of the 1990s set out principles for the proper conduct of public business in the United Kingdom.
- <sup>18</sup> See Gay and Winetrobe, *Officers of Parliament: A Progress Report from the United Kingdom*, 2003.
- <sup>19</sup> Paul G Thomas, The past, present and future of officers of Parliament, *Canadian Public Administration*, 46(3), 2003, 287.
- <sup>20</sup> Parliament of Victoria, Public Accounts and Estimates Committee: *Report on a Legislative Framework for Independent Officers of Parliament*, February 2006, p. 85.
- <sup>21</sup> Robert Buchanan, Seminar paper on *The Status and Workings of Officers of Parliament in New Zealand*, unpublished.
- <sup>22</sup> David McGee, *Parliamentary Practice in New Zealand*, Third edition, 2005, p. 4.
- <sup>23</sup> Paul G Thomas, The past, present and future of officers of Parliament, *Canadian Public Administration*, 2003, 46(3), 287.
- <sup>24</sup> Sir Brian Elwood, *Report of the Chief Ombudsman on Leaving Office*, 2003, A. 3A, p. 4.
- <sup>25</sup> Reforms were effected by amendment of the Public Finance Act 1989.
- <sup>26</sup> Parliament of New Zealand, Finance and Expenditure Committee, *Special report on Auditor-General Annual Plan for 2003/04*, 2002.
- <sup>27</sup> New Zealand Parliament, Officers of Parliament Committee, *Code of Practice for the Provision of Assistance by the Parliamentary Commissioner for the Environment to the House of Representatives, Select Committees and Members of Parliament*, 2007, I. 15D **and** *Code of Practice for the Provision of Assistance by the Auditor-General to the House, Select Committees and Members of Parliament*, 2007, I. 15C.