OFFICERS OF PARLIAMENT

The holders of a few public roles are placed in the category of “Officer of Parliament” by the statutes under which their positions are established. These offices are, in very general terms, associated with the oversight of executive authority. They perform functions the House might itself perform. While some other office-holders, such as the Clerk of the House and the General Manager of the Parliamentary Service, are closely involved with the House’s activities they are not regarded as “Officers of Parliament” in the formal sense.

The first Officer of Parliament to be expressly created as such by statute was the Ombudsman (then known as a commissioner for investigations) when this position was established in 1962.1 A second Officer of Parliament, the Wanganui Computer Centre Privacy Commissioner, was created in 1976. This office was abolished on 30 June 1993. A third Officer of Parliament, the Parliamentary Commissioner for the Environment, was created on 1 January 1987. An older position than any of these, that of the Controller and Auditor-General, formally became an Officer of Parliament position on 1 July 2001.

Definition of Officer of Parliament

There is no statutory definition of or criteria for an Officer of Parliament. The status of Officer of Parliament is attached on an individual basis to particular positions. Nor is it specified what being an Officer of Parliament entails in respect of powers, duties and functions. Some common rules have been developed for the officers’ relations with the House and for their funding arrangements but, in the main, the powers, duties and functions of the officers are to be inferred from a consideration of the individual statutory provisions applying to each.

Nevertheless, some attempt has been made to specify when it is appropriate to confer on an official the status of “Officer of Parliament”, because it is recognised that this should be done only after due deliberation and when it is appropriate to the nature of the official’s duties. If a position is to be established as an Officer of Parliament, it should be subject to the conditions applying to an arm of the legislative branch of the State, such as being outside the public service and not being subject to control of its actions by the executive.

In its report on an inquiry carried out in 1989, the Finance and Expenditure Committee set out five criteria to consider when the creation of an Officer

1 Parliamentary Commissioner (Ombudsman) Act 1962, s 2(1).
of Parliament is under investigation. The committee made the following recommendations.2

- An Officer of Parliament must only be created to provide a check on the arbitrary use of power by the executive.
- An Officer of Parliament must only discharge functions that the House itself, if it so wished, might carry out.
- An Officer of Parliament should be created only rarely.
- The House should, from time to time, review the appropriateness of each Officer of Parliament’s status as an Officer of Parliament.
- Each Officer of Parliament should be created in separate legislation principally devoted to that position.

These recommendations were endorsed by the Government of the day3 and have formed the basis ever since for considering whether it is appropriate to make a particular position an Officer of Parliament position.

In an elaboration of these criteria, a committee considering a proposal for the creation of an Officer of Parliament said that it was not an appropriate model for an official with an advocacy role, because an Officer of Parliament must be seen to act impartially so as to retain the integrity and confidence of the whole House. The ability of an Officer of Parliament to take a position on a matter of public controversy is thus necessarily inhibited. It also considered it inappropriate for an Officer of Parliament to exercise executive responsibility, and so become involved in the development of policies and services provided by the Government,4 or for Officer of Parliament status to be accorded where the official’s functions were confined to providing informational and related educational activities.5

Proposals to create Officers of Parliament

Central to the recommendations made by the Finance and Expenditure Committee in 1989 was a recommendation that Cabinet adopt an instruction requiring consultation with the select committee on Officers of Parliament (now the Officers of Parliament Committee) before approving the drafting of legislation that included the creation of an Officer of Parliament. The Officers of Parliament Committee’s terms of reference specifically include power to consider any proposals referred to it by a Minister for the creation of an Officer of Parliament.6 That committee protested when a proposal to create an Officer of Parliament reached legislative form in a bill without having been referred to it first.7 Such proposals may be made directly to committees that are considering bills without having been considered first by the Officers of Parliament Committee.8 It has been accepted that the House as a whole should come to a view on the creation of Officers of Parliament and that it is desirable for it to achieve consensus on this. Proposals made directly to a committee need to be assessed in this light. A proposal to create an Officer of Parliament has been withdrawn by the Government when there was no consensus.9

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6 SO 395(1)(c).
OFFICERS OF PARLIAMENT COMMITTEE

A very important step to ensure a common parliamentary approach to the position of Officer of Parliament was the creation of a select committee with a specific responsibility for the oversight of Officers of Parliament. This committee was created in 1989 as a direct result of the inquiry carried out by the Finance and Expenditure Committee. At first the committee was appointed on an ad hoc basis to examine the Estimates of Appropriations for Officers of Parliament on referral from the Finance and Expenditure Committee. Since 1992 it has been one of the permanent select committees established at the commencement of each Parliament.

The Speaker chairs the Officers of Parliament Committee ex officio. Its size is determined by the Business Committee. All parties will be offered representation on it, although they may not be able to accept the offer. As well as appointing Officers of Parliament, the committee’s duties involve considering the funding of the Offices of Parliament and providing a central focus for the parliamentary relationship with officers. This does not mean that Officers of Parliament are not involved with other select committees. The Auditor-General’s staff provide services to all of the subject select committees when they are carrying out their Estimates and annual review and inquiry functions, and the Auditor-General’s reports may be directly relevant to topics being considered by other committees. The Parliamentary Commissioner for the Environment’s staff assist select committees on legislation and inquiries with environmental implications, and the nature of this officer’s duties entails frequent interaction with the Local Government and Environment Committee.

The Officers of Parliament Committee has an explicit focus on the annual budget-setting for Offices of Parliament. (See pp 548–549.) However, the Estimates and annual reviews of Offices of Parliament are allocated to subject select committees. In addition to its work on appointments and on pre-budget approval of funding for Offices of Parliament, it is also the committee’s duty to recommend to the House the appointment of auditors for each Office of Parliament, and to consider any proposals for the creation of a new Officer of Parliament referred to it by a Minister. It may develop or review a code of practice applicable to any, or all, Officers of Parliament. The committee has developed and reported to the House on codes of practice governing the provision of assistance to select committees by Officers of Parliament and their interaction with the House generally.

PROCEDURES FOR THE APPOINTMENT OF OFFICERS OF PARLIAMENT

Officers of Parliament are appointed by the Governor-General on the recommendation of the House. Over time a convention had developed of inter-party consultation before a notice of motion endorsing the appointment of a person as an Officer of Parliament is put to the House.
Concern that the convention was not working as effectively as intended and that there was still too much departmental influence over the appointments led the Standing Orders Committee, in 1995 and 1996, to formalise the procedures under which consultations for appointments take place. The procedures were further revised in 2002.

The Officers of Parliament Committee is specifically charged with recommending to the House the appointment of persons as Officers of Parliament. The procedures followed vest the function of co-ordinating consultations for appointments (and reappointments) firmly in the Speaker, working through the Officers of Parliament Committee. For this purpose, where a new position is established, and six months before the end of the term of office of an incumbent, the Speaker initiates consultations through the committee with representatives of all of the parties represented in the House. Where a party is not represented on the committee, the Speaker ensures that it is advised of the consultation and can have a representative attend meetings of the committee at which the appointment is discussed.

Members serving on the Officers of Parliament Committee are responsible for representing the views of their party colleagues on appointments. However, any member of Parliament has the right to speak directly to the Speaker and the committee about an appointment. The relevant Minister is specifically advised of the consultation to be undertaken and invited to participate in it. For example, the Minister of Justice was consulted on an Ombudsman appointment.

Any member can suggest a name for appointment, but the committee will follow a rigorous selection process regardless of whether such a suggestion is made. A job description and person specification is prepared with assistance from the State Services Commission or a specialist adviser to the committee. The position is advertised, and the recruitment adviser will also initiate a job search, as directed by the committee. The adviser helps the committee to assess applications and draw up a short list of candidates. Candidates are interviewed by a subcommittee chaired by the Speaker, which reports to the full committee for final endorsement of the recommendation. The cost of this process is charged to the Office of Parliament concerned. Members are pledged to consider candidates for appointment in the light of the qualifications and qualities required by the relevant legislation, and to use their best endeavours to find a person whose appointment can be supported by all parties. No public comment on proposed appointees is made while consultations are taking place.

No proposal will be put to the House without the unanimous agreement of the committee unless the Speaker considers that total agreement is impossible, that it is unreasonable to prolong the consultations, and that the public interest requires that an appointment be made forthwith. Even then the Speaker will consent to this only if, after extensive consultation, the Government and other major parties agree about the appointment but the opposition of a party or parties representing a small minority of members of Parliament prevents unanimous agreement.

21 SO 395(1)(d).
23 Ibid.
25 Ibid.
A temporary appointment may be made on the Government’s initiative while consultations are proceeding if the Speaker, in consultation with the committee, agrees that it is reasonable in the particular case.

When agreement has been reached on an appointment, the recommendation is put to the House by means of a Government notice of motion in the name of the Leader of the House.

**CONDITIONS APPLYING TO OFFICERS OF PARLIAMENT**

**Term of office**

Officers of Parliament are appointed for fixed terms of office. That of the Auditor-General is for a term of up to seven years.\(^{26}\) For the Ombudsmen, the Parliamentary Commissioner for the Environment and the Deputy Auditor-General, the appointment is for up to five years.\(^ {27}\) However, all Officers of Parliament continue to hold office at the end of their terms until a successor has been appointed. The Auditor-General may not be reappointed to the position.\(^ {28}\) There is no prohibition on the reappointment of other Officers of Parliament.

**Oaths**

Before entering upon the duties of the office, all Officers of Parliament must take an oath of office, in the form prescribed for each, before the Speaker or the Clerk of the House.\(^ {29}\)

**Remuneration and funding**

The salaries and allowances of Officers of Parliament are determined by the Remuneration Authority and appropriated under permanent legislative authority. Their salaries may not be reduced during the term of their appointment.\(^ {30}\)

The funding for the operation of the Offices of Parliament is subject to special pre-Budget approval by the House on the recommendation of the Officers of Parliament Committee. (See pp 548–549.) The Speaker is the “responsible Minister” for each Office of Parliament in respect of the offices’ funding.\(^ {31}\) However, the Speaker has no role in an officer’s operational decisions; in this respect the officers are statutorily independent.

The auditors of Offices of Parliament are appointed by resolution of the House.\(^ {32}\) The Officers of Parliament Committee is charged with recommending auditors for the Offices of Parliament.\(^ {33}\) The House has appointed the Auditor-General as the auditor of the Ombudsmen and the Parliamentary Commissioner for the Environment and an independent auditor for the Auditor-General.\(^ {34}\) The latter appointment is reviewed every three years.\(^ {35}\) Before the Minister of Finance may issue any instructions to Offices of Parliament and before any regulations may be made concerning the information they must publish regarding their activities or the non-financial reporting standards they must comply with, the Minister must first provide the Speaker with a draft of such instructions or regulations.\(^ {36}\) The Speaker presents the draft to the House\(^ {37}\) and it is referred to the Officers of

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\(^ {26}\) Public Audit Act 2001, sch 3, cl 1(1).

\(^ {27}\) Ombudsmen Act 1975, s 5; Environment Act 1986, s 6; Public Audit Act 2001, sch 3, cl 2(1).

\(^ {28}\) Public Audit Act 2001, sch 3, cl 1(4).

\(^ {29}\) Ombudsmen Act 1975, s 10; Environment Act 1986, s 10; Public Audit Act 2001, sch 3, cl 3.

\(^ {30}\) Ombudsmen Act 1975, s 9; Environment Act 1986, s 9(1); Public Audit Act 2001, sch 3, cl 5.

\(^ {31}\) Public Finance Act 1989, s 2(1).

\(^ {32}\) Ombudsmen Act 1975, s 31A; Environment Act 1986, s 26(1); Public Audit Act 2001, s 38(1).

\(^ {33}\) SO 395(1)(b).

\(^ {34}\) (17 June 2010) 664 NZPD 11829.

\(^ {35}\) (11 December 2012) 686 NZPD 7408.

\(^ {36}\) Public Finance Act 1989, s 82(1) – (2).

\(^ {37}\) Public Finance Act 1989, s 82(3).
Parliament Committee for consideration. The instructions cannot be given or regulations made until they have been approved by resolution of the House.

### Cessation and suspension from office

An Officer of Parliament may resign from office by informing the Speaker in writing. The Speaker informs the House of any such resignation.

An Officer of Parliament may be suspended or removed from office only by the Governor-General on an address from the House on the grounds of disability affecting performance of the officer’s duties, bankruptcy, neglect of duty or misconduct. An officer may be suspended by the Governor-General while Parliament is not in session, but such a suspension obtains only for a limited period after the next session commences, during which time the House may consider the matter.

### CONTROLLER AND AUDITOR-GENERAL

The Controller and Auditor-General is the State’s auditor. The position was first established in New Zealand in 1878, absorbing functions from a number of audit officers. It became a full Officer of Parliament position in 2001, and the first Auditor-General was appointed on the recommendation of the House early in 2002.

#### Organisation of the office

The Auditor-General is a corporation sole with perpetual succession. The Deputy Controller and Auditor-General is also appointed as an Officer of Parliament, and may exercise all of the functions, duties and powers of the Auditor-General.

The Auditor-General employs the staff and engages private-sector auditing firms to assist the Auditor-General in carrying out the duties of the office. Staff are employed outside the public service. The office is organised into three internal business units. The office of the Auditor-General is responsible for strategic audit planning, setting auditing standards, allocating audits, overseeing auditors’ performance, carrying out performance audits and special studies and inquiries, and parliamentary reporting and advice. The second unit, Audit New Zealand, is responsible for carrying out annual financial report audits and providing assurance services to public entities. Most audits are allocated directly to an auditor, but from time to time an auditor is appointed by competitive tender to carry out an audit. There is also a corporate services business unit.

#### Annual work plan

The Auditor-General is required to submit a draft annual plan to the Speaker of the House at least 60 days before the beginning of each financial year. This draft plan sets out the Auditor-General’s proposed work programme for the year. Consideration of the draft plan by select committees is organised by the Finance and Expenditure Committee. The committee circulates it to other committees.
and co-ordinates their responses, which are forwarded to the Auditor-General by the date requested in the draft plan. The committee may also discuss the draft plan with the Auditor-General.

The Auditor-General must take account of any comments from the committees or the Speaker, before presenting a completed annual plan to the House. The plan must specify any changes requested by the Speaker or the committees that are not reflected in the final work programme.\(^50\)

**Work of the office**

The Auditor-General is the auditor of every public entity.\(^51\) This means auditing the Crown, public service departments, Crown entities, State enterprises, local authorities and a number of other public bodies.\(^52\) The House has appointed the Auditor-General as auditor of the other Officers of Parliament.\(^53\) In total the office conducts about 3,700 audits of annual financial reports (about 3,000 of these are of school boards and other small entities).\(^54\)

Staff of the office of the Auditor-General work closely with select committees, especially in their Estimates and annual review work. Staff have sometimes been seconded to select committees to provide technical support on committee inquiries. The Auditor-General’s office also carries out its own inquiries and may report on them directly to committees. A protocol has been adopted for the provision of assistance to select committees by the Auditor-General. It sets out how decisions on the nature and level of such assistance are to be taken.\(^55\)

The Auditor-General must present an annual report to the House\(^56\) and must report to it at least once every calendar year on matters arising out of the performance and exercise of the Auditor-General’s functions, duties and powers.\(^57\)

The Auditor-General also has a general power to report to a Minister, a select committee, a public entity or any other person on a matter arising out of the discharge of the Auditor-General’s duties if he or she considers it desirable to do so.\(^58\) Each year the House receives reports from the Auditor-General on particular audits and inquiries into central government or local authority activities.

Reports of the Auditor-General stand referred to the Finance and Expenditure Committee, which may consider a report itself or refer it to another select committee for consideration.\(^59\) This procedure allows parliamentary consideration of recommendations of the Auditor-General and a Government response to any recommendations a committee may make to the House.\(^60\)

**OMBUDSMEN**

The position of Ombudsman was created in 1962 to investigate complaints relating to administrative decisions or recommendations made by Government departments or other governmental bodies. The scope of the Ombudsman’s remit was extended to include education and hospital boards in 1968 and local authorities in 1975. In 1982 extensive functions under the Official Information Act 1982 were added to the office’s other tasks and these were extended into the local government

\(^{50}\) Public Audit Act 2001, s 36(3) – (4).
\(^{51}\) Public Audit Act 2001, s 14(1).
\(^{52}\) Public Audit Act 2001, s 5 and schs 1 – 2.
\(^{55}\) Officers of Parliament Committee Code of practice for the provision of assistance by the Auditor-General to the House, select committees, and members of Parliament (17 June 2016) [2014 – 2017] AJHR I.15C.
\(^{56}\) Public Audit Act 2001, s 37.
\(^{57}\) Public Audit Act 2001, s 20.
\(^{58}\) Public Audit Act 2001, s 21.
\(^{59}\) SO 396.
\(^{60}\) SO 252.
area in 1987 and to school boards of trustees in 1994. From 2001 the Ombudsman was required to provide employees with information and guidance on making protected disclosures. The Crown Entities Act 2004 brought all Crown entities within the Ombudsman's jurisdiction under the Ombudsmen Act 1975 and the Official Information Act 1982. The Ombudsman was designated a National Preventive Mechanism in 2007, under the Crimes of Torture Act 1989. The Ombudsman is responsible for visiting prisons, immigration detention facilities, health and disability places of detention, child care and protection residences, and youth justice residences in order to prevent torture and other cruel, inhuman or degrading treatment or punishment. In October 2010 the Ombudsman, along with the Human Rights Commission, and New Zealand Convention Coalition, took on responsibilities under the United Nations Convention on the Rights of Persons with Disabilities.

The term “ombudsman” has been applied to positions relating to industry complaints procedures in banking and insurance. There is now a statutory prohibition on the use of the term without the permission of the Chief Ombudsman. The Chief Ombudsman has devised criteria for considering applications for the use of the name, in order to avoid confusion between the parliamentary, recommendatory nature of an Ombudsman’s work and the adjudicative nature of industry procedures for consumer complaints resolution. Given the international and constitutional connotations of the title, permission to use it will rarely be given.

There may be one or more Ombudsmen appointed as Officers of Parliament, one of whom is to be appointed Chief Ombudsman. A second Ombudsman was appointed for the first time in October 1975 and a third in 2001. Since 2001 the number has varied between two and three. Temporary Ombudsmen may also be appointed from time to time. Holding or continuing to hold office as a District Court judge has been declared to be compatible with being an Ombudsman and an Ombudsman has been permitted to continue to hold office as a District Court judge during his term of office. All Ombudsmen have equal authority in carrying out their work; the Chief Ombudsman’s lead role is in respect of the administration of the Office of the Ombudsmen. A proposal for the appointment of “Deputy Ombudsmen”, which would have compromised this statutory equality, was rejected.

The House may, if it thinks fit, make general rules for the guidance of the Ombudsmen in the exercise of their statutory functions. Such rules are printed and published as if they were statutory regulations. Rules have been made authorising the Ombudsmen to publish reports relating to their functions or to a particular case or cases.

Any committee of the House may refer a petition that it has before it to an Ombudsman for a report; however, this has been done only rarely.

61 See Bryan Gilling The Ombudsman in New Zealand (Dunmore, Palmerston North, 1998) at 51–52 and 87–108.
62 Protected Disclosures Act 2000, s 15.
64 Crimes of Torture Act 1989, s 16.
65 See, for example: “Ombudsman appointment made” The Dominion (19 October 1994) at 23.
66 Ombudsmen Act 1975, s 28A(1).
67 The Ombudsmen, annual report (19 September 2001) NZPP A.3 at 27–32; Chief Ombudsman, report on leaving office (22 July 2003) NZPP A.3A at [6.4]–[6.5].
69 (15 December 1994) 135 New Zealand Gazette 4421 at 4421–4422.
70 Officers of Parliament Committee Inquiry into legislative provision for the appointment of Deputy Ombudsmen (23 May 2002) [1999–2002] AJHR I.15B.
71 Ombudsmen Act 1975, s 15.
73 Ombudsmen Act 1975, s 13(4).
Ombudsman may report to the House at any time, but the Ombudsmen must report to the House on their work at least once a year.  

The Ombudsman is an investigatory official. The office does not make final binding adjudications, only recommendations, and it has no power to enforce its findings. This is seen as its strength. It seeks to persuade the parties in a dispute to follow a reasonable course of action and to resolve disputes without declaring a winner and a loser. In most cases, the prestige of the office is enough to lead any public agency to comply with any such recommendation addressed to it. In an exceptional case, the House criticised a body that rejected the Ombudsman’s recommendations and called upon it to comply. However, even then the body concerned was not under a legal obligation to comply. 

Like other Offices of Parliament, the Office of the Ombudsmen must submit information to the House each year on its operating intentions. The Officers of Parliament Committee conveys its views on the office’s draft plan directly to the office so that the plan can be finalised.

**PARLIAMENTARY COMMISSIONER FOR THE ENVIRONMENT**

The Parliamentary Commissioner for the Environment is an Officer of Parliament appointed by the Governor-General on the recommendation of the House.

The parliamentary commissioner has a wide-ranging role of inquiring into the actions of public authorities insofar as they might have an environmental impact, and auditing the procedures that such authorities prescribe to minimise any adverse environmental effects from their activities. The commissioner may review and comment on Government reports on the state of the environment produced by the Ministry for the Environment and Statistics New Zealand. The views of the commissioner must be sought by the Local Government Commission on any reorganisation scheme it is considering. The commissioner may appoint staff to assist in the exercise of the powers and functions of the office. These staff are employed under terms and conditions approved by the Speaker. The House or any select committee may request the commissioner to report on any petition, bill or other matter before it that may have a significant effect on the environment. Under this provision, the commissioner has conducted an inquiry into planning for flood mitigation and reported the results to the House for the use of a committee in an inquiry it was conducting. The House may also direct the commissioner to inquire into any matter with environmental consequences and to report on it to the House. The commissioner and the commissioner’s staff often assist select committees in their financial and inquiry work by acting as advisers. A code of practice regulates the assistance that the commissioner may provide.

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74 Ombudsmen Act 1975, s 29.  
75 Chief Ombudsman, report on leaving office (22 July 2003) NZPP A.3A at [6.6].  
77 Public Finance Act 1989, s 45G(1).  
80 Environment Act 1986, s 16.  
83 Environment Act 1986, s 11.  
84 Environment Act 1986, s 16(1)(d).  
86 Environment Act 1986, s 16(1)(e).  
88 Officers of Parliament Committee Code of practice for the provision of assistance by the Parliamentary Commissioner for the Environment to the House, select committees, and members of Parliament (17 June 2016) [2014–2017] AJHR I.15D.
The commissioner must submit information to the House on the office’s future operating intentions, and take account of the views of the Officers of Parliament Committee in finalising this plan.

The workload of the office is determined by:

- the number of issues identified by the commissioner, the commissioner’s staff, members of Parliament, and other individuals and groups as significant in their effects on the environment
- requests from the House and select committees
- environmental impact reporting required for Ministers and Government agencies.

The commissioner will become concerned with an issue only if no other Government agency is already dealing with it or is capable of handling it.

OTHER OFFICERS AND BODIES ASSOCIATED WITH PARLIAMENT

The House is involved in the appointment or removal of a number of other officers, apart from the Officers of Parliament. They include the Representation Commission and the Electoral Commission, the Clerk of the House of Representatives and the Parliamentary Service Commission, and judges of the High Court, the Employment Court and the Environment Court, who can be removed from office only following an address from the House. (See respectively, Chapters 3, 6 and 29.) There are also detailed parliamentary accountability requirements relating to Crown entities and State enterprises. (See Chapter 34.) Miscellaneous other officers and bodies with which the House has an association are dealt with below.

Abortion Supervisory Committee

This committee was established to keep under review the law on abortion and to perform administrative and licensing tasks under the relevant legislation. The committee consists of three members (two of whom must be registered medical practitioners) appointed by the Governor-General on the recommendation of the House.

Members of the Abortion Supervisory Committee hold office for three years but remain in office until their successors are appointed. They may be removed from office by the Governor-General only following an address from the House. Vacancies in the membership of the committee arising from the death, resignation or removal of members are filled by the appointment of a successor by the Governor-General on the House’s recommendation. In that case, the person appointed to the vacancy holds office only for the unexpired portion of the term of his or her predecessor, not for a three-year term in his or her own right. Although it is not a Crown entity, the House has resolved that the committee should be subject to the House’s annual review procedures.

89 Public Finance Act 1989, s 45G(1).
93 Contraception, Sterilisation, and Abortion Act 1977, ss 10 and 14.
94 Contraception, Sterilisation, and Abortion Act 1977, s 10.
95 Contraception, Sterilisation, and Abortion Act 1977, s 11.
96 Contraception, Sterilisation, and Abortion Act 1977, s 12.
97 Contraception, Sterilisation, and Abortion Act 1977, s 11(4).
Association of Former Members of Parliament

In 1989, following the establishment of similar groups in the United States, Canada and Australia, a number of former members of Parliament established a group known as the Association of Former Members of the Parliament of New Zealand. The association is an unincorporated body with its own constitution. Membership is open to all former members of Parliament. The association charges its members an annual subscription and appoints a management committee from among its membership.

The objects of the association are:

- to encourage the continuance of associations and friendships formed while members of Parliament
- to represent former members
- to provide advice and assistance in appropriate cases to former members
- to arrange functions and meetings to the benefit of parliamentary institutions.

The association holds an annual general meeting in Parliament House and its annual report is presented to the House by the Speaker.

Cawthron Institute Trust Board

The Cawthron Institute is an industrial and technical school, institute and museum set up under the will of Thomas Cawthron (1833–1915, a Nelson businessman and philanthropist) and a private Act of Parliament. The member of Parliament for the electoral district of Nelson is an ex officio member of the institute’s trust board.

Intelligence and Security Committee

The Intelligence and Security Committee is a statutory committee established in 1996 to exercise oversight and review of the intelligence and security departments—the New Zealand Security Intelligence Service and the Government Communications Security Bureau.

The committee consists of the Prime Minister, the Leader of the Opposition, two members of Parliament nominated by the Prime Minister after consultation with the leader of each party in any Government coalition and one member nominated by the Leader of the Opposition, with the Prime Minister’s agreement, after consultation with the leader of each party not in Government. The names of the nominated members must be submitted to the House for its endorsement. The committee cannot transact business until these members have been endorsed by the House. As membership is dependent on nomination by the Prime Minister or the Leader of the Opposition as the case may be, it is not competent for the House to substitute its own nominees for appointment, although it may reject a nominee and vote on such nominations separately. If it becomes apparent to the Speaker that the statutory requirement for consultation has not been carried out, the Speaker will rule any notice of motion seeking the House’s endorsement out of order. It is, therefore, incumbent on the Minister lodging such a notice to satisfy the Speaker that the consultation has been carried out. Consultation in this context means more than merely informing other leaders of a decision that has already been reached; it means giving the person being consulted a real opportunity to be heard. However, ultimately the matter is decided politically on the floor of the House.

99 Thomas Cawthron Trust Act 1924.
100 Thomas Cawthron Trust Act 1924, s 3(1)(a)(iii).
101 Intelligence and Security Committee Act 1996, ss 3 and 6.
102 Intelligence and Security Committee Act 1996, ss 7 and 8.
104 Ibid.
The Prime Minister is the chairperson of the Intelligence and Security Committee except when the committee is conducting its annual reviews of the intelligence agencies or considering any matter relating to their performance. The Prime Minister also does not act as chairperson if he or she is the responsible Minister under the legislation governing an intelligence security agency being examined by the committee.\footnote{105} If the Prime Minister is chairing a meeting of the Intelligence and Security Committee when these matters come up, another member of the committee, nominated by the Prime Minister, acts as the chairperson. If absent from a meeting of the committee, the Prime Minister can appoint either the Deputy Prime Minister or the Attorney-General as an alternative chairperson.\footnote{106}

The committee can consider bills, petitions and other matters referred to it by the House.\footnote{107} The House has resolved that the committee consider the Estimates and Supplementary Estimates for and conduct an annual review of each intelligence and security department. Bills are referred to the committee from time to time and the Clerk is obliged to refer any petition relating to such an agency to the committee. The House usually orders that no select committee can examine an intelligence and security department.\footnote{108}

The proceedings of the committee are, subject to the legislation, to be conducted in accordance with the Standing Orders. The committee presents an annual report to the House on its activities and makes the report available to the public on the Parliament website.\footnote{109} Unless the committee unanimously resolves to the contrary, all proceedings are held in private, except when the committee is conducting an annual review of the performance of an intelligence and security agency.\footnote{110} The committee is advised by the Department of the Prime Minister and Cabinet,\footnote{111} and the Office of the Clerk provides a clerk of committee to advise on committee procedure in relation to Standing Orders. Proceedings of the committee are privileged in the same way as if they were proceedings in Parliament.\footnote{112} The committee is obliged to have regard to security considerations in any report it makes to the House.\footnote{113}

The committee is consulted on appointments to the roles of Inspector-General and Deputy Inspector-General of Intelligence and Security.\footnote{114}

\textbf{Judicial Conduct Commissioner}

Provision for the appointment of a Judicial Conduct Commissioner was made in 2004. The commissioner’s functions are to receive complaints about judges, conduct preliminary examinations of them and, in appropriate cases, recommend that a Judicial Conduct Panel be appointed to inquire into the conduct of a judge.\footnote{115} The commissioner is appointed by the Governor-General on the recommendation of the House. Before the House’s recommendation is made, the Attorney-General must consult the Chief Justice about the appointment and advise the House that this has been done.\footnote{116} The commissioner holds office for the period (between two and five years) specified in the appointment.\footnote{117} The commissioner may only be
removed from office within this period by the Governor-General, acting on an address from the House for incapacity or misconduct.\textsuperscript{118}

**Legislation Design and Advisory Committee**

The Legislation Design and Advisory Committee (LDAC) is a group of senior Government officials whose mandate is to promote high-quality legislation through advice to Government departments in the early stages of policy and legislative development, the issuing of guidelines for legislative drafting, and the scrutiny of Government bills that are being considered by the House.\textsuperscript{119} In 2015 LDAC replaced the previous Legislation Advisory Committee, whose guidelines have been endorsed by the Government as representing the drafting standards that legislation should generally follow.\textsuperscript{120} (See Chapter 25 for further discussion of drafting practice.) The Parliamentary Counsel Office provides secretariat services to LDAC.

**Māori Purposes Fund Board**

The Māori Purposes Fund Board administers the Māori Purposes Fund, which is responsible for promoting the health, education and economic welfare of Māori and for other matters related to Māori arts, language, customs and traditions.\textsuperscript{121} Each member of Parliament representing a Māori electoral district is ex officio a member of the Board.\textsuperscript{122}

**New Zealand Business and Parliament Trust**

The New Zealand Business and Parliament Trust was formed in 1991 as an educational charity. The Speaker is its president. It endeavours to bridge a perceived gap of understanding between MPs and business people. The intended purposes are to enable MPs to widen their commercial experience and increase their knowledge of business, and to improve business managers’ understanding of the way government is exercised through Parliament.\textsuperscript{123} The setting up of the trust was inspired by the success of a similar organisation in the United Kingdom, the Industry and Parliament Trust. There were 76 corporate members of the trust at the end of 2015.\textsuperscript{124} The trust organises day-long study programmes held in Parliament House, at which business people are introduced to the work of the House and of members of Parliament. To reciprocate this arrangement, a business study programme aims to give MPs an overview of key business functions and to help them understand the contribution of business to the economy. Each study attachment involves placing an MP with a “host” company. The MP is attached to one of the trust’s corporate members for a few days for a first-time attachment, and shorter times for subsequent attachments.

**New Zealand Lottery Grants Board**

The New Zealand Lottery Grants Board is responsible for determining the proportions in which the profits of New Zealand lotteries are to be allocated for distribution.\textsuperscript{125} The Prime Minister and the Leader of the Opposition are ex officio members of the board, along with the Minister of Internal Affairs, who presides.\textsuperscript{126} The Prime Minister and the Leader of the Opposition may nominate

\textsuperscript{118} Judicial Conduct Commissioner and Judicial Conduct Panel Act 2004, sch 2, cl 3.
\textsuperscript{119} Legislation Design and Advisory Committee “The role of the LDAC” <www.ldac.org.nz>.
\textsuperscript{120} Cabinet Office Cabinet Manual 2008 at [7.37], [7.49], [7.60] and [7.84].
\textsuperscript{121} Maori Purposes Fund Act 1934–35, ss 4 and 7(1).
\textsuperscript{122} Maori Purposes Fund Act 1934–35, s 7(2)(c).
\textsuperscript{123} New Zealand Business and Parliament Trust 2014 Review (2015) at i.
\textsuperscript{125} Gambling Act 2003, s 274.
\textsuperscript{126} Gambling Act 2003, s 272(2).
other members of Parliament to attend a meeting of the board in their stead. Such nominated members are regarded as full members of the board.127

**Ngarimu VC and 28th (Maori) Battalion Memorial Scholarship Fund Board**

The Ngarimu VC and 28th (Maori) Battalion Memorial Scholarship Fund Board administers a scholarship fund established in 1945. The fund provides educational assistance for Maori and for the study and promotion of the Maori language and Maori history, tradition and culture.128 Each member of Parliament representing a Maori electoral district is ex officio a member of the board.129

**Parliamentary Counsel Office**

The House’s closest external working relationship is that with the Parliamentary Counsel Office, which is principally responsible for the drafting of Government legislation and for drafting amendments to legislation that is passing through the House. (See Chapter 25.)

The Parliamentary Counsel Office was founded as the Law Drafting Office in 1920 and given its present name in 1973. Its ministerial head is the Attorney-General (or, if there is no Attorney-General, the Prime Minister) and its chief executive is the Chief Parliamentary Counsel.130 As well as drafting bills and amendments, the office supervises the publishing of electronic and printed copies of Acts and legislative instruments, ensuring the availability of official electronic versions of legislation.131

**Independent Police Conduct Authority**

The Independent Police Conduct Authority was created in 2007 to replace the Police Complaints Authority. The Independent Police Conduct Authority investigates complaints of alleged misconduct or neglect of duty by any member of the police; any police practice, policy or procedure affecting a complainant; and incidents in which a member of the police causes or appears to have caused death or serious bodily harm while acting in the execution of his or her duty. The Authority may carry out its own investigation, or refer the matter to the police for investigation under the Authority’s oversight.132

The Independent Police Conduct Authority consists of up to five members, appointed by the Governor-General on the recommendation of the House for a term of between two and five years.133 One member must be appointed as chairperson of the Authority by the Governor-General on the recommendation of the House; he or she must be a judge or a retired judge.134 It is the House’s practice in recommending a person for appointment to specify in the resolution the term of the recommended appointment.

If a vacancy occurs in the office while Parliament is not in session or one exists at the close of a session and the House has not recommended a successor, the vacancy may be filled during the recess by an appointment made by the Governor-General in Council. Such an appointment lapses unless the House expressly confirms it before the end of the 24th sitting day following the appointment.135

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127 Gambling Act 2003, sch 5, cl 3.
128 Ngarimu VC and 28th (Maori) Battalion Memorial Scholarship Fund Act 1945, s 7(1).
129 Ngarimu VC and 28th (Maori) Battalion Memorial Scholarship Fund Act 1945, s 4(2)(c).
130 Legislation Act 2012, s 66(1).
131 Legislation Act 2012, ss 9 and 59.
132 Independent Police Conduct Authority Act 1988, s 12.
133 Independent Police Conduct Authority Act 1988, s 5.
134 Independent Police Conduct Authority Act 1988, s 5A.
135 Independent Police Conduct Authority Act 1988, s 7.
A member of the Independent Police Conduct Authority may be removed or suspended from office by the Governor-General, on an address from the House, on the grounds of disability, bankruptcy, neglect of duty or misconduct.136

Radio New Zealand Limited

Radio New Zealand Limited was established as a Crown entity on 1 December 1995 to hold the public radio assets of Radio New Zealand.137 Radio New Zealand Limited has a statutory charter setting out its principles and obligations.138 The House is obliged to review the charter at five-yearly intervals.139 The Commerce Committee carried out reviews for the House in 2001 and 2006 as part of its general inquiry function.140 In the absence of statutory guidance as to the object of the review, it adopted its own terms of reference to guide it in carrying out the first review.141

Radio New Zealand Limited holds the licence to use the frequencies on which parliamentary debates are broadcast. (See Chapter 6.)

Reserve Bank of New Zealand

The Reserve Bank of New Zealand is responsible for formulating and implementing monetary policy and registering and regulating banks.142 Any funding agreement between the Minister of Finance and the Governor of the bank regarding the income of the bank that is to be applied in meeting its expenditure must be ratified by resolution of the House in order to be effective.143 Although it is not a Crown entity, the House has resolved that the bank should be subject to the House’s annual review procedures.144

State Services Commissioner

The Governor-General may suspend the State Services Commissioner or a Deputy Commissioner from office for misbehaviour or incompetence. In this event, a full statement of the grounds on which the suspension was effected must be laid before the House within seven sitting days of the suspension.145 The matter is then in the hands of the House. If the House takes no action within 21 days of the statement being given to it, the commissioner is automatically restored to office. However, if the House resolves within that time that the commissioner ought to be removed from office, then the Governor-General removes him or her from office as at the date of the suspension.146

Universities and tertiary institutions

Universities, colleges of education and polytechnics may not be disestablished unless the House has first passed a resolution approving the proposed disestablishment.147

138 Radio New Zealand Act 1995, s 7(1)–(3).
139 Radio New Zealand Act 1995, s 7(4).
142 Reserve Bank of New Zealand Act 1989.
143 Reserve Bank of New Zealand Act 1989, s 161(2).
145 State Sector Act 1988, s 16(3)–(4).
146 State Sector Act 1988, s 16(4).
147 Education Act 1989, s 164(2).