

Government responses to Parliamentary Committee inquiries

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‘Government responses are not the be all and end all. It is not all purely us providing a report and then begging the government to please accept it, but the government’s lack of response is a key flaw and I believe it is significantly diminishing the effectiveness of the committee report process.’¹

Recently, there has been an increasing amount of media interest in government responses to parliamentary committee reports at the federal level. In June 2005, the Sydney Morning Herald newspaper published several articles in what they termed a ‘special Herald investigation’ into federal government responses to parliamentary inquiries.² The articles questioned the effectiveness of parliamentary committees, pointing out the number of committee reports which had not received a formal government response. The Herald reported that the federal government had not replied on time to a single public inquiry of the 62 it had ordered in the House of Representatives since December 1998, and it had given no reply to almost half of them.³

Aim and scope of paper

The aim of this paper is to investigate the self-imposed requirement on the federal government to respond to parliamentary committee reports and to consider to what extent government responses are important in evaluating the effectiveness of committees. The paper will also consider some suggestions for improving the government response process as a way of increasing the effectiveness of parliamentary inquiries.

¹ Senate Debates, 24.6.06, 143 (Senator Andrew Bartlett).

² G. Ryle and L. Pryor, ‘Democracy denied’, *Sydney Morning Herald*, 20 June 2005.

³ *Id.*

The scope of this paper is limited to discussion of parliamentary committees at a federal level, focussing on House of Representatives select and standing committees concerned with the scrutiny of policy and administration. This paper will not attempt to discuss government responses to the inquiries of estimates committees, Senate legislative review committees which scrutinise government and other bills, specialised oversight committees, nor other committees to which the government response time limit does not apply, such as the Joint Standing Committee on Public Works.⁴

History & authority for requirement to respond to parliamentary committee inquiries

In Australia, the federal government formally responds to committee reports by way of a statement presented to the House, or Houses.⁵ This practice was first introduced in 1978 when Prime Minister Malcolm Fraser stated on behalf of the government that the responsible Minister would report within six months of the tabling of a parliamentary committee report indicating the government's attitude towards recommendations in that report.⁶

In 1983, the Hawke Government reduced the period in which a response should be made from six months to three months.⁷ According to Senator the Honourable John Button, 'that has been done because it is desired to make the reports of committees as relevant as possible to any considerations which the government may have to make in respect of policy matters'.⁸ Senator Button further went on to explain the government's policy in the event of the government not being able to respond within the three-month period: 'Ministers responsible have been requested to advise Parliament accordingly, together with reasons why responses cannot be given'.⁹

⁴ Both the 1978 and 1983 government statements made it clear that the response mechanism excluded certain reports, including those made by the Joint Standing Committee on Public Works: Department of the House of Representatives (Committee Office), *Register of Reports from Committees of the House of Representatives and Joint Committees*, Canberra, May 1998, page vi.

⁵ I. C. Harris (ed.), *House of Representatives Practice*, 5th Ed, Canprint Communications, Canberra, 2005, p 689.

⁶ House of Representatives Debates, 25.5.78, 2465-6.

⁷ Senate Debates, 24.8.83, 141-2.

⁸ Ibid, p 141.

⁹ Ibid, p 141.

On 27 June 1996, the Leader of the House, the Honourable Peter Reith MP, presented a paper to the House which affirmed the commitment of the Howard Government to respond to parliamentary committee reports within three months of their presentation.¹⁰

This three month deadline is also embodied in a Senate resolution of continuing effect,¹¹ which was first resolved in 1973¹² and later amended.¹³ However, there is no such equivalent in the House of Representatives Standing and Sessional Orders. In 1998, the House of Representatives Standing Committee of Procedure attempted to incorporate the requirement for governments to respond to committee reports into the standing orders rather than leave it to the discretion of the government of the day. The Committee recommended that the standing orders be amended to:

- require the government to respond to committee reports within three months of tabling; (recommendation 13)
- enable a Member to request the Speaker to write to the Minister if, after three months, a response has not been made; (recommendation 14)
- require the Speaker to table in the House, at six monthly intervals, a schedule of government responses to the reports of the House of Representatives and joint committees, and reports presented to which responses are outstanding. (recommendation 15)¹⁴

The government did not support these recommendations. Mr Reith stated: ‘The government already maintains its three-month target for responses to reports and provides a six-monthly schedule of government responses to reports in the House of Representatives and joint committees and also of the reports presented to which responses are outstanding. In my view that is perfectly adequate, and we therefore do not propose to pick up this recommendation.’¹⁵

¹⁰ House of Representatives Debates, 27.6.96, 3026-3027.

¹¹ The Senate, ‘Procedural Orders and Resolutions of the Senate of Continuing Effect’ (No. 37), *Standing Orders and other orders of the Senate*, Canberra, September 2006, p 134.

¹² Senate Journal, 14.3.73, 51.

¹³ Senate Journal, 24.8.94, 2054.

¹⁴ House of Representatives Standing Committee on Procedure, *Ten Years On: A review of the House of Representatives Committee System*, May 1998, chapter 3, pp 4-5.

¹⁵ House of Representatives Debates, 3.12.98, 1302 (The Hon. Peter Reith MP).

Form of government responses

As indicated in Mr Reith's statement, at approximately six-monthly intervals, the Speaker presents to the House a schedule listing government responses to the House of Representatives and joint committee reports, as well as responses outstanding.¹⁶ In response to this, the Leader of the House presents a document which lists current parliamentary committee reports and the stage reached by the relevant government department in each case.¹⁷

Critically, neither the list presented in response to the Speaker's schedule, nor correspondence from a Minister directly to a committee chair, constitutes a formal response to a committee report.¹⁸ Accordingly, 'the government's response to a committee report is considered to have been formally made only when presented directly to the House(s)'.¹⁹

According to the *Guidelines for the Presentation of Government Documents to the Parliament*, a document that provides advice to officers of government departments on procedures for tabling government documents in Parliament, 'responses to parliamentary committee reports may be an in principle statement of the government's intentions, but must address all the recommendations and, if applicable, indicate reasons for not accepting any specific recommendation. Minority or dissenting reports and recommendations should also be dealt with in the same manner.'²⁰

Further, 'if a final government response cannot be prepared within the three month time frame the responsible Minister should provide a brief explanation about the delay in the six monthly

¹⁶ For example, House of Representatives Votes and Proceedings (VP) 1993-95/2687; VP 1996-98/95; VP 1998-2001/1156.

¹⁷ For example, VP 1993-95/1683; VP 1996-98/340; VP 1998-2001/1595.

¹⁸ I. C. Harris (ed.), op cit (n 5), p 690.

¹⁹ Id.

²⁰ Department of the Prime Minister and Cabinet, *Guidelines for the Presentation of Government Documents to the Parliament*, Canberra, June 2006, p 10.

reports to the Parliament about outstanding government responses, indicating when a detailed response will be available.’²¹

Importance of government responses to parliamentary committee reports

Recent media attention given to government responses to committee reports raises the question: why are government responses to parliamentary committee reports important? Under a democratically-elected system, the government is under an obligation to listen to the people and to rule on their behalf. In this sense, the Sydney Morning Herald articles advocate that lack of or late government responses to committee inquiries has led to the denial of democracy: ‘Millions of taxpayers’ dollars have been wasted on more than 70 parliamentary inquiries whose recommendations have been ignored and left to collect dust’.²²

In a similar vein, most commentators on this topic indicate that the response of governments to committee inquiries is an integral part of the separation of powers doctrine, allowing the Parliament to scrutinise the executive government of the day. Dr John Uhr stresses the importance of government responses to committee reports in terms of parliamentary accountability: ‘If governments were genuine about their obligations of parliamentary accountability, they would at the very least respond to reports from parliamentary committees of inquiry. They do not have to agree with the reports or accept any of their recommendations, but they should formally respond, on the public record in Parliament and invite open debate about the appropriateness of the government’s response ... Why should community groups bother to put their views to parliamentary committees if governments never bother to listen to the committees? And why should community groups bother to pay attention to parliamentary committees if parliaments do not act to repair the problem of non-listening governments?’²³

Politicians also see government responses as important in terms of both democracy and accountability. Recently, Senator Andrew Bartlett charged the government with contempt for the committee system in speaking to the President’s report on outstanding government

²¹ Ibid, p 11.

²² G. Ryle and L. Pryor, op cit (n 2).

²³ J. Uhr, ‘Issues Confronting Parliaments’, *Australasian Parliamentary Review*, Autumn 2002, Vol. 17(1), 119-30: 129.

responses to committee reports. Senator Bartlett was discussing the recent tabling of a government response to a superannuation committee report: ‘The government rejected, I think, all but one of the recommendations, and that is fine. The government can reject them and put forward the reasons why. The problem is that that response took four years and four months to be presented—it took four years and four months to say, “No—don’t think so”. How ridiculous! It shows contempt not just for the Senate and the committees but also for the public.’²⁴

Evaluating the effectiveness of parliamentary committees: relevance of government responses?

Government responses to parliamentary committee reports are also important in terms of rating the effectiveness of parliamentary committees. The Sydney Morning Herald suggests that parliamentary committees are wasteful and ineffective, particularly in the federal arena, because so few of their inquiries have received a timely government response.²⁵ The following cartoon is indicative of the position taken by the media:²⁶



²⁴ Senate Debates, 22.6.06, 142-143.

²⁵ G. Ryle and L. Pryor, op cit (n 2).

²⁶ Moir, ‘Moir’s cartoon’, *Sydney Morning Herald*, 21 June 2005.

This view is espoused by one Labor MP writing for the Sydney Morning Herald: ‘There is no point to parliamentary committees if they are not listened to by the executive, or if they can’t take people’s concerns to the government.’²⁷

Several academics have also used simple statistical information about numbers of committee reports and responses to evaluate the effectiveness of committees. In 2001, Halligan et al devised a simple method for comparing Senate, House of Representatives and joint committee reports using the number and length of committee reports.²⁸ They concluded that an overall trend was the ‘relatively dominant position occupied by the Senate system’ and the ‘secondary position of the House of Representatives’.²⁹

Malcolm Aldons, a former Committee Secretary within the Department of the House of Representatives, presents a more sophisticated methodology for evaluating committees on the basis of government responses. Aldons rates committees as effective if more than half of the recommendations contained in a committee report are accepted and implemented by the government.³⁰ His methodology has five steps:³¹

1. Count the total number of recommendations, excluding ‘soft recommendations’, that is, recommendations which have no potential to influence government because of the way they are worded, such as ‘the committee recommends that the government continue to ...’.
2. Classify recommendations, and thereby reports, as referring to either ‘policy’ or ‘administration’.
3. Classify government responses as ‘agree’, ‘agree in part’ or ‘disagree’. This may have to be inferred if not explicitly stated in the response.
4. Classify the accepted recommendations as to whether there is any commitment by the government to implement.

²⁷ B. O’Connor, ‘PM should practise what he preaches’, *Sydney Morning Herald*, 24 June 2005.

²⁸ J. Halligan, J. Power and R. Miller, ‘The Three Committee Systems of the Australian Parliament – A Developmental Overview’, *Australasian Parliamentary Review*, Spring 2001, Vol 16(2), pp 163-164.

²⁹ *Ibid*, p 164.

³⁰ M. Aldons, ‘Rating the Effectiveness of Parliamentary Committee Reports: The Methodology’, *Legislative Studies*, Spring 2000, Vol 15(1), 22-32.

³¹ *Ibid*, pp 25-28.

5. Rate the effectiveness of the report. Aldons' rating system means a report will be one of the following:
- (i) effective, if at least fifty percent of the recommendations are accepted, and at least fifty percent of these accepted recommendations have a commitment to implementation or have been implemented;
 - (ii) *prima facie* effective, if at least fifty percent of the recommendations are accepted, but there is insufficient information to determine whether fifty percent of these accepted recommendations have a commitment to implementation or have been implemented;
 - (iii) doubts about effectiveness, if at least fifty percent of the recommendations are accepted, but less than fifty percent of these accepted recommendations have a commitment to implementation or have been implemented;
 - (iv) ineffective, if less than fifty percent of the recommendations are accepted.

There is also a final step: if one of the recommendations that have been implemented is a key recommendation, then the report can be classified as effective, even if less than fifty percent of recommendations are accepted or implemented.³²

Aldons emphasises that evidence of the government's intention to implement recommendations, whether by legislative or administrative action, is the most crucial step in his methodology, much more important than the mere acceptance of recommendations by the government in its response: 'Without knowledge of implementation we do not know *what is being done* about recommendations that have been accepted or those with likely positive outcomes ... acceptance does not necessarily mean that the government is going to do something new.'³³

Evaluating the effectiveness of parliamentary committees: broader approach

The 'government response approach' taken by Aldons and others has been questioned, as it fails to measure other benefits and consequences of committees, including:

- public participation

³² Ibid, p 27.

³³ Ibid, p 26.

- exposure of issues
- initiation of long-term change.

Indeed, despite his methodology to rate the effectiveness of committees, Aldons himself has commented that it is ‘virtually impossible to measure the impact of committees’ due to the large amount of what he terms ‘non-decisional’ functions of committees.³⁴ Such functions include ‘taking Parliament to the people’³⁵ by enabling citizens to put their case on the public record, and exposing committee members to important areas of public policy.³⁶

In 2001, the New South Wales Legislative Council applied Aldons’ methodology to draw conclusions about the effectiveness of two reports of the Standing Committee on Law and Justice.³⁷ The Council made some comment on the appropriateness of Aldons’ methodology for evaluating committees and their reports.

The Council identified several benefits afforded by the use of the methodology in their case study. Firstly, it showed trends in acceptance or rejection of particular types of recommendations or by particular agencies, and secondly, it enabled identification of poorly drafted recommendations, both of which would serve as a useful guide for future drafting of recommendations.³⁸

Lastly, and most importantly, the Council found that the methodology focussed attention on ‘the nature of implementation that the government has committed itself to as a response ... it identifies implementation needing follow up, where it is not clear yet whether a recommendation has been effective’.³⁹

³⁴ Ibid, p 25.

³⁵ L. Barlin (ed.), *House of Representatives Practice*, AGPS, Canberra 1997, p 583 (cited in M. Aldons, op cit (n 30), p 24).

³⁶ Aldons, op cit (n 30), p 24.

³⁷ New South Wales Legislative Council, ‘Evaluating Effectiveness of Committee Reports: Case Study of Law and Justice Committee Reports on the Inquiry into Crime Prevention through Social Support’, *Annual Report*, Volume Two, Appendix 3, December 2001.

³⁸ Ibid, p 118.

³⁹ Id.

However, the Council also found major weaknesses in Aldons' methodology, namely that the methodology uses only one indicator of performance to the exclusion of other more *qualitative* measures of effectiveness of committees: 'It assumes that effectiveness of an inquiry is a function of how positively the executive government responds to the recommendations made. This is a very narrow view of the potential contribution of parliamentary inquiries.'⁴⁰ By focussing on government responses to recommendations as the measure of effectiveness of committees, 'the value of parliamentary committee work is reduced to only that aspect of it which can be easily quantified'.⁴¹

The view of the NSW Legislative Council has been echoed by countless other academic commentators on this topic. Hawes has pointed out that 'committee influence is far more subtle a phenomenon than any quantitative count of recommendations would imply'⁴², while Dr Rodney Smith has stated that 'it would be difficult and misleading to evaluate ... committees by focusing solely on government responses to their recommendations'⁴³. Further, the Speaker of the House of Representatives has acknowledged that 'the value of a committee inquiry and the report is not simply determined by whether a report receives a timely government response'.⁴⁴

Following are several factors which would need to be assessed when evaluating the effectiveness of parliamentary committees.

1. Public participation

In a paper presented by Mr Paul Pearce MP, a Member of the NSW Joint Parliamentary Committee on the Independent Commission Against Corruption (ICAC), Mr Pearce points out that, although in the past the Committee has made various recommendations relating to

⁴⁰ Id.

⁴¹ Id.

⁴² D. Hawes, *Power on the backbenches? The growth of select committee influence*, School for Advanced Urban Studies (SAUS) Publications, Bristol, 1993, p 182 (cited in M. Aldons, op cit (n 54), p 85).

⁴³ R. Smith, 'The Place of Oversight Committees in Integrity Systems: Some Evidence from New South Wales, *Report on the 2nd National Conference of Parliamentary Oversight Committees of Anti-Corruption/Crime Bodies 22-23 February 2006*, Report No. 7/53, April 2006, page 166.

⁴⁴ House of Representatives Debates, 23.6.05, 105 (the Hon David Hawker MP).

the ICAC which produced no reaction from the government, ‘the mere fact of putting these issues into the public arena shows another powerful and advantageous role that our oversight committees perform’.⁴⁵

This has also be recognised by the Speaker of the House of Representatives: ‘Committee inquiries serve a key purpose in allowing the community to participate directly in the parliamentary process, commonly referred to around this place as ‘taking Parliament to the people’. The inquiries help to inform members of the public about issues under consideration in the Parliament and to directly inform parliamentarians of public and community attitudes.’⁴⁶

Clearly, any measure of the effectiveness of a parliamentary committee would need to evaluate the impact of providing public debate on the particular topic.

2. Exposure of issues

Aldons states that ‘not all reports have outcomes that influence or are intended to influence decision-making. There are reports without recommendations and here the inputs, for example the evidence collected, could be important as a way of discharging the informing function of Parliament. Sometimes the input, for example the discussion/issues paper, could become the final committee output – the committee report.’⁴⁷

Some committee reports do not require a government response. The Speaker gives the example of scrutiny of the Reserve Bank, which occurs twice a year, where the public hearing is the critical part of the inquiry.⁴⁸

Hence, in addition to Aldons’ rating of effectiveness using the acceptance and implementation of reports recommendations, the exposure of issues is an important measure which should be

⁴⁵ P. Pearce, ‘Parliamentary Oversight from Parliament’s Perspective: the NSW Parliamentary Committee on ICAC’, *Australian Parliamentary Review*, Autumn 2006, Vol 21(1), 95-101: 100.

⁴⁶ House of Representatives Debates, 23.6.05, 105 (the Hon David Hawker MP).

⁴⁷ M. Aldons, op cit (n 30), p 25.

⁴⁸ House of Representatives Debates, 23.6.05, 105 (the Hon David Hawker MP).

included. Professor Geoffrey Lindell stresses to need to add other factors into the equation, including:

- knowledge of the existence of others reports and information, prepared by committees or other House or alternative and non-parliamentary sources (where appropriate)
- whether the committee brought to light new information and advanced new criticisms.⁴⁹

3. Initiation of long-term change: the causal relationship between committee inquiries and government policy

According to Aldons, ‘a general problem with recommendations and responses, a problem that has bedevilled analysts for a long time, is causality: the relation between the recommendation and the action taken.’⁵⁰ This may be extended further to encompass the relation between the inquiry process and the action taken – often government departments pick up on key issues during the course of an inquiry to the extent that they may anticipate possible recommendations and act accordingly prior to the release of the committee report. The following quote was taken from the Sydney Morning Herald is an example of this:

‘Some inquiries take so long to report that the original concerns are no longer an issue. For instance, in October 2002 the Senate began investigating the use of rural water. It finished in August 2004, after 11 public hearings in Canberra, Melbourne, Sydney, Darwin and in rural towns in NSW, Queensland and Western Australia, but by that time other arms of government – state and federal – had set a water reform agenda. This rendered the inquiry largely irrelevant.’⁵¹

This author disputes the fact that the rural water inquiry was ‘largely irrelevant’, maintaining instead that the inquiry was probably a catalyst for government action in this respect. As noted by the Speaker of the House of Representatives, ‘governments often embrace a position arising from a committee inquiry or report before providing a formal response and many have

⁴⁹ G. Lindell, ‘How (and whether?) to evaluate parliamentary committees – from a lawyer’s perspective’, *Paper presented to an evaluation forum on 18 November 2004*, December 2004, page 3.

⁵⁰ M. Aldons, ‘Rating the Effectiveness of Parliamentary Committee Reports: Some Examples’, *Australasian Parliamentary Review*, Autumn 2001, Vol 16(1), 52-60: 56.

⁵¹ G. Ryle and L. Pryor, ‘We were given hope and we got nothing’, *Sydney Morning Herald*, 20 June 2005.

influenced government policy and legislation but have not yet received a formal government response.’⁵²

Hence, in any evaluation of the effectiveness of parliamentary committees it would be necessary to examine to what extent government policy has changed as a result of the inquiry, regardless of whether this has been formalised in any official government response.

4. Legal obstacles to committee powers

Lindell states that any measurement of effectiveness of committees would need to address the extent to which legal obstacles or limitations to committees powers of inquiry frustrate the work of committees. These restrictions include:

- Executive privilege
- Immunity of states and their officials from appearing and answering questions
- Inability of either House to exercise jurisdiction over Ministers in the other House
- Commercial in confidence clauses in public commercial contracts which would prevent scrutiny over the expenditure of public moneys.

5. Other considerations

Lindell advocates the need to obtain information from committees, the witnesses who appeared before them, and other affected individuals on the extent to which problems have arisen in regards to the rights of individuals, since ‘effectiveness also needs to be measured by reference to the rights of such persons’.⁵³

Political partisan considerations, such as ‘the absence of unanimity and voting along party lines’,⁵⁴ is another factor which would need to be considered in measuring the effectiveness of a committee.

Can these qualitative factors be measured?

⁵² House of Representatives Debates, 23.6.05, 105 (the Hon David Hawker MP).

⁵³ G. Lindell, op cit (n 48), page 5.

⁵⁴ Id.

Aldons has stated: ‘Quantitative data analysis measures the success or otherwise of committee reports in influencing government decision-making based on government acceptance of recommendations. It is a method that can be empirically tested. Qualitative data cannot be tested. It is based in part at least on views and opinions of others.’⁵⁵ However, this does not pose a problem for Aldons, as he doubts the value of qualitative measures of the effectiveness of committees: ‘I for one fail to see how this subtle influence can exist when the key recommendations of a report are rejected unless there is compelling evidence to the contrary’.⁵⁶

Professor Lindell agrees that it is difficult to viably evaluate the effectiveness of committees on a comprehensive, regular and systematic basis: ‘Statistics may assist and are of course relevant but it is, as others have pointed out, difficult to evaluate the effect of parliamentary control upon the Executive Government. The main problem relates to the making of subjective judgments about the quality of what is achieved especially when the effect of parliamentary control is usually indirect and even then, frequently denied by those affected by it.’⁵⁷

Accordingly, Lindell suggests that the time and effort which would necessarily be involved in a proper evaluation of the effectiveness of a committee indicates it would not really be worthwhile to apply it regularly and systematically to *all* committees. Rather, he suggests it may be useful for *some* committees on an *ad hoc* basis.⁵⁸

The NSW Legislative Council came to a similar conclusion, suggesting that Aldons’ methodology would be best suited to committee reports which produce recommendations to improve aspects of government administration, and noting that the definition of ‘effectiveness’ will be different for each particular committee inquiry or report and as such would effect the choosing of any measures or indicators to measure effectiveness.⁵⁹

⁵⁵ M. Aldons, ‘Problems with Parliamentary Committee Evaluation: Light at the end of the tunnel?’, *Australasian Parliamentary Review*, Autumn 2003, Vol 18(1), 79-94: 92.

⁵⁶ *Ibid*, p 85.

⁵⁷ G. Lindell, *op cit* (n 48), page 3.

⁵⁸ *Ibid*, page 4.

⁵⁹ New South Wales Legislative Council, *op cit* (n 36), p 119.

This has been echoed by other commentators. A recent study by Smith took the view that ‘evaluation of parliamentary committees should not impose a single set of pre-ordained outcomes as its measure of success or failure. Parliamentary committees will usually have “multiple audiences” or “stakeholders” with different and sometimes competing interests. Evaluations of committee work should therefore take the views of these stakeholders into account’.⁶⁰

Ideas for improving government responses to parliamentary committee reports

Clearly, the effectiveness of a parliamentary committee cannot be measured simply by reference to the rate of government responses. However, improvements to the rate of responses as well as the content of those responses would go some way towards both increasing the effectiveness of committee inquiries and quelling public and media outcries about the denial of democracy.

One suggestion by Aldons to improve the content of government responses is for the government to provide responses in a standardised format: ‘A best practice format is one where the response has a general introduction followed by a section on each recommendation. In each section the recommendation should be repeated and, under the heading ‘response’, the government should indicate its attitude to each recommendation. Government should indicate whether the recommendation is accepted, accepted in-principle, not accepted, whether the recommendation is not relevant or unnecessary and so forth. There should also be a ‘comment’ section that contains additional information on the recommendation. The other heading for each section should be ‘implementation’. Here the government should indicate a strategy for implementing the recommendations it accepts⁶¹ ... The inclusion of an implementation strategy for recommendations accepted should go a long way to remove confusion over the response.’⁶²

⁶⁰ R. Smith, op cit (n 42), p 166.

⁶¹ M. Aldons, op cit (n 30), p 29.

⁶² Ibid, p 30.

There has been some attempt by the public to improve the rate of government responses to committee reports. For instance, according to the Sydney Morning Herald, a coalition of community groups affected by the inquiry process formed a watchdog group to monitor how the federal government responds. Known as the Parliamentary Action Group, it was to check whether the Howard Government replies within three months, as it promised in 1996, and if not, lobby for action. The group met on 20 June 2005 at the Ashfield Uniting Church, led by the Reverend Bill Crews of the Exodus Foundation.⁶³ At the time of writing, nothing more had been heard from the group.

Parliamentarians have also sought to improve the rate of government responses to committee inquiries. One Member of the House of Representatives actually asked the Speaker to write to responsible Ministers to seek advice as to when a response would be received and reasons for delay.⁶⁴

However, the Speaker responded: ‘There is no basis of authority for me to write to ministers concerning responses to committee reports that have not been made after three months. My role as the Speaker is to monitor the provision of government responses to committee reports and inform the House of outstanding responses. The schedule I have just presented fulfils this function. If this role is to be expanded it would be a matter for the Procedure Committee to consider and for the House to determine. Finally, I would like to make the point that it is within the authority of individual committees to follow up with relevant ministers and departments with regard to their reports.’⁶⁵

The Speaker mentions perhaps one of the most useful suggestions for increasing government response to reports and thereby the effectiveness of parliamentary inquiries: have parliamentary committees follow up on their own reports. Follow up measures could include:

- having dedicated researchers from the committee secretariat to follow up government responses and action taken. This may include investigating policy developments undertaken by the relevant government department.

⁶³ G. Ryle, L. Pryor and M. Metherell, ‘Senate boss blasts PM’s monarchy’, *Sydney Morning Herald*, 21 June 2005.

⁶⁴ House of Representatives Debates, 22.6.05, 84 (Mr Daryl Melham MP).

⁶⁵ House of Representatives Debates, 23.6.05, 105.

- inviting the relevant portfolio Minister to brief the Committee at the point three months from the date the report was tabled and update the committee on the progress of their recommendations, or if there has been no progress, why not.

According to Aldons, ‘committees rarely follow up to check implementation of recommendations in reports and hardly ever publish this information’.⁶⁶ In the absence of a standardised format for government responses to committee reports, he advocates for greater committee follow up of responses, including seeking clarification of responses like ‘accepted in principle’ or ‘accepted in part’.⁶⁷ Such follow up should seek to analyse the impact of each recommendation contained in the committee report on government decision-making, if the recommendation is accepted and implemented.⁶⁸

In terms of the follow up procedures of committees to responses to their reports, Aldons suggests that the Presiding Officers of both Houses to ask the government to table an ‘Action Report’ at regular intervals: ‘These reports would include information on implementation of recommendations the government has accepted and the final view on recommendations the government said needed further consideration or those that have referred to others’.⁶⁹

Follow up procedures from the UK Parliament

According to the House of Commons Select Committee on Liaison, ‘a major factor in a committee’s effectiveness is its willingness to pursue and review its recommendations. Once the publication of the report, the media coverage, and the government reply have conveniently faded away, nothing is easier than for a government department to forget all about what a select committee has recommended.’⁷⁰

The Liaison Committee suggested that select committees within the House of Commons should ‘assess progress on “live” recommendations and criticisms’ and report by reference to

⁶⁶ M. Aldons, op cit (n 30), p 27.

⁶⁷ Ibid, p 30.

⁶⁸ Id.

⁶⁹ M. Aldons, op cit (n 49), p 59.

⁷⁰ House of Commons Select Committee on Liaison, First Report on ‘Shifting the Balance: Select Committees and the Executive’, March 2000, para 51.

written evidence, and through additional hearings if necessary.⁷¹ The Liaison Committee said it would be desirable for each committee to produce an annual report before Christmas each year, and in the following January, the Liaison Committee or its successor would:

- draw conclusions about the overall effectiveness of the select committee system; and
- address any problems affecting committees, such as access to documents, attendance of witnesses, or quality of government replies.⁷²

As well as scrutiny of government departments, the Liaison Committee commented on the usefulness of the initiative as an audit of committee effectiveness: ‘Mere comparison of reports and government replies produces the “bean counting” so beloved of some academics, which is actually misleading. It does not distinguish between the “soft” recommendation which is already halfway to implementation and the “hard” recommendation which may change thinking - and may even be quietly adopted months or years later. Nor does it give proper weight to situations where analysis and criticism, rather than formal recommendations, have the most influence. Regular follow up reports - which of course may include a committee’s own views upon its work - will give a much truer and fairer assessment of committees’ achievements.’⁷³

Annual Report may provide vehicle for committees to follow up on inquiries

It is possible for House of Representatives committees to revisit past inquiries. For most committees within the House of Representatives, ‘inquiries are referred by the House, a Minister, or in some cases the Speaker. A matter may also be referred to a committee by legislation ... Although technically the general purpose standing committees cannot initiate their own references, in practice they may either take the initiative and seek a reference or at least be involved in considering and negotiating suitable terms of reference. In addition, the ability to consider annual reports and Auditor-General’s reports enables these committees on

⁷¹ Ibid, para 52.

⁷² Ibid, para 55.

⁷³ Ibid, para 54.

their own initiative to address matters dealt with in such reports, and this may lead to informal discussions with officials, or to formal hearings”.⁷⁴

As indicated above, a government department’s Annual Report may be used as a vehicle to follow up previous recommendations. This has been utilised by the Joint Standing Committee on Foreign Affairs, Defence and Trade, which follows up responses to recommendations through inquiries based on the Annual Report each year.⁷⁵ This approach would enable committees to follow up on recommendations made previously to that government department to track their implementation, or lack thereof.

It has been said that the ‘parliamentary dustbin is littered with the unremembered words of inquiries into important policy options’.⁷⁶ Although a government response to a parliamentary committee inquiry is by no means the only factor determinative of the effectiveness of a committee, it remains an important measure, particularly to the public and the media. Government policy may still change as a result of a committee inquiry despite a lack of formal government response. Perhaps, as Aldons and others suggest, the onus then needs to shift back to the committees themselves to follow up on their recommendations: ‘Absence of follow up procedures is a feature of committee operations. But if there is to be change committees must be interested to know the final outcomes of their reports. If they are not interested no one else will be.’⁷⁷

⁷⁴ I. C. Harris (ed.), op cit (n 5), p 649.

⁷⁵ The most recent of these was: Joint Standing Committee on Foreign Affairs, Defence and Trade *Review of the Defence Annual Report 2004-05*, Canberra, October 2006.

⁷⁶ J. Uhr, ‘Parliamentary measures: Evaluating parliament’s policy role’, in I. Marsh (ed.), *Governing in the 1990s, An agenda for the decade*, CEDA/Longman, Melbourne, 1993, pp 347-75 (cited in M. Aldons, op cit (n 30), p 22).

⁷⁷ M. Aldons, op cit (n 49), p 59.