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Tēnā koe Mr Speaker,

I understand one of the emerging themes of your triennial review of Standing Orders is parliamentary scrutiny of the Executive. This goes to the core of my responsibilities since the functioning of the legislation, public agencies and systems that relate to the environment is ultimately the responsibility of the Executive.

A significant part of my job is to assist Parliament, and parliamentarians as a whole, to maintain oversight of the effectiveness of environmental governance and the wise use of public money in the pursuit of both legislated and governmental environmental outcomes

Through many of my investigations, I have become aware of a number of obstacles that stand in the way of members discharging their responsibilities. It is no coincidence that similar conclusions have been reached by my fellow Officer of Parliament, the Auditor General.

I did not make a written submission to the Standing Orders review at the time submissions were open as I was still forming my views prior to the finalisation of my *Are we making a difference?* report presented to the House on 18 October.¹ Public accountability is a key theme of that report. It was also a topic I explored in a speech I gave to Victoria University's Governing for the Future symposium held recently in Sir Geoffrey Palmer's honour.²

If you will indulge me, I set out the essence of my thinking below. I have also attached edited excerpts from *Are we making a difference?* that give a more detailed sense of my conclusions regarding improving scrutiny and accountability.

Better information is essential for informed and searching public scrutiny

To be able to hold ministers and government agencies to account, reliable, relevant information is essential. Almost all of my investigations as Parliamentary Commissioner for the Environment have identified significant gaps in data, information and knowledge about the environment. Those gaps are seriously impeding better environmental management and hindering anyone wanting to examine the effectiveness of that management. Filling those gaps will require sustained investment by successive governments in high-quality information.

¹ The full report and a summary for Parliamentarians are available at <https://www.pce.parliament.nz/publications/environmental-reporting-research-and-investment>.

² See <https://www.pce.parliament.nz/our-work/news-insights/speech-governing-an-unimaginable-future>.

Some information gaps directly limit Parliament's ability to scrutinise the Executive and hold it to account. In my view, members need to be able to see the broad relationship between issues affecting us and our environment, desired outcomes and government spending. They also need to be able to see the links between those outcomes, key initiatives and the results of monitoring and evaluation. My report details how far away we are from that in the context of the environment.

I fully accept that while more and better information will help to improve accountability, there will never be perfect information. But that should not prevent us from asking more searching questions about publicly funded programmes. Even today, with some serious shortcomings in the quality of the information base, there is a wealth of information held by government agencies that could be better used by Parliament in its scrutiny of the Executive.

The challenge for Parliament is to extract that information from government agencies and appropriations in a format that is useful and accessible. My team tried several methods to do this at a high level just for environmental expenditure. We found the task difficult and imprecise. If it was hard for me, with the expert resources I have, it will be even harder for parliamentarians, and the public you represent, to get a clear picture.

While annual reports might be a good way for Parliament to assess a minister's or agency's contribution, they are not a good way to assess progress towards outcomes to which multiple agencies contribute. Doing that requires information aggregated by outcome rather than by appropriation or agency.

Quite a lot of that raw material exists. It is just poorly collated or labelled. In my view, Parliament should ask the Executive to present information by sector-wide or government-wide outcomes as well as by appropriation and agency, as currently required.

Expert advice can be a bridge between information and scrutiny

Parliament then needs to be able to use that information to ask more penetrating questions of the Executive and its agencies. In doing so, select committees could make greater use of specialist advisors independent of the Executive. Those advisors can help craft questions committee members might ask and help interpret the responses supplied by ministers and agencies. This may require better resourcing, or it may require select committees taking a more proactive approach. I offer two examples from my own experience that illustrate the value of independent advice.

Last year I was invited by the Environment Committee to provide expert evidence on a petition calling for a ban on chemical nitrogen fertilisers. I was unable to oblige because it was not a topic I had investigated in any detail. I was, however, able to offer the committee a suite of questions I would have asked government agencies if I had been investigating the issue. I understand the committee found those questions to be a useful basis for their examination of the agencies.

Earlier this year, following agency submissions in response to my weeds reports, the Environment Committee invited me to comment on the agencies' responses. I was able to identify areas where I thought officials' replies indicated reasonable engagement as well as areas where their replies merited further probing.

Two practical suggestions aimed at facilitating select committee scrutiny

Improving the quality of select committee scrutiny might be achieved in a number of ways. In my *Governing an unimaginable future* speech I attempted to lay some of the groundwork for wider, small 'c' constitutional change that could be considered. In *Are we making a difference?* I suggested changes to legislation (namely, the Public Finance Act 1989 and the Environmental Reporting Act 2015) aimed at improving the supply of financial and nonfinancial information.

But there are some changes to current parliamentary practice that could be implemented more quickly.

1. Select committees could ask for the Government to provide them with financial and nonfinancial information aggregated by outcome. This would be in addition to information contained in appropriation document and annual reports. It would provide select committees with some of the information that they need to apply a whole-of-government (or whole-of-sector) lens to their scrutiny.
2. Select committees could make more use of independent advisors to help them craft probing questions, make sense of the responses they receive, and act as a source of independent advice more generally. This applies equally to any specific inquiries a committee is making, to its scrutiny of estimates, to its annual review of agency performance or to any legislation it may be examining.

I am not well placed to provide specific recommendations on how Standing Orders might be modified to achieve what I propose. It may be that my comments are not directly relevant to your immediate task of reviewing the Standing Orders. But I think they are relevant to the wider collective objective of improving the way in which Parliament discharges its vital function of holding the Executive to account.

I would be more than happy, as an officer of Parliament, to share my insights with the Standing Orders Review Committee should the committee wish me to.

Yours sincerely,



Rt Hon Simon Upton

Parliamentary Commissioner for the Environment
Te Kaitiaki Taiao a Te Whare Pāremata

Edited excerpts from *Environmental reporting, research and investment: Do we know if we're making a difference*³

Overview

Better quality information is at the bottom of our ability to tell whether we are making a difference. But it has to be underlined immediately that no amount of information is valuable if it isn't going to be used. So while there needs to be a big catch-up in the comprehensiveness and quality of environmental data, so too is there a need for making much better use of it.

Decision making needs to be better informed by evidence. And those decisions – and their consequences – need to be capable of scrutiny. Only then will we know whether we *are* making a difference. Any political commitment to improve linkages between data, knowledge and investments must be undertaken in the almost certain knowledge that unexpected and inconvenient things will come to light. Targets may prove to be unreachable. Popular policies may be shown to be ineffective. New and emerging trends may strand even the most carefully considered policies.

None of this should deter any politician. If some of the ominous trends we see in terms of biodiversity, water quality, chemical pollution and greenhouse gas emissions are really going to be taken seriously and treated with the urgency they demand, everyone must be prepared to be accountable for what they are doing about them. Government policies don't always hit the mark. Neither do private undertakings. We need to know if environmental limits are being breached – or maybe, even, that they're unattainable. Accountability based on good data and mātauranga Māori has to be at the core of any democratic engagement with environmental management.

Public accountability emerges as the principal theme of this report. And for there to be accountability, there has to be **clarity and transparency** about what it is we're trying to achieve. We are beginning to realise that in respect of climate change. This report calls to extend a similar focus to the outcomes we are trying achieve in respect of the other environmental issues we face. We need:

- clarity about what environmental outcomes have been given priority by governments
- an equally clear idea of their plans or strategies to deliver those outcomes
- clarity about where and how money is being spent in pursuit of them
- information about the impact that spending is having and the progress we are making
- whole of government reporting that transparently communicates this to parliamentarians and citizens alike.

The scale and complexity of environmental challenges is not well handled by our current system of public accountability focused on individual agencies. We need to know what is happening at the level of the government as a whole, in a way that is accessible and can be easily mapped back to the environmental monitoring we are doing.

³ See <https://www.pce.parliament.nz/publications/environmental-reporting-research-and-investment>.

We simply do not have this at present. There is a maze of strategies, all sorts of agency-level initiatives and virtually no systematic way to evaluate whether we're making a difference. Parliamentarians and citizens are not provided with information in a form that can be easily used to hold governments to account.

I attempted, for the purposes of this report, to generate an estimate of central government's investment in the environment, broken down by the main environmental domains. It suffers from many limitations, but it is the best that I could do with publicly available information. The expertise of my office could be better spent directly advising Parliament, rather than producing annual estimates of environmental expenditure to meet the information needs of select committees. But I am prepared to do so if necessary to ensure that this doesn't slide off the radar.

People will differ over the relative seriousness of different environmental challenges. But I would be very surprised if there is any disagreement about the need to be informed about the impact and effectiveness of environmental investments. This is why accountability, the issue that lies at the heart of this report, raises its head so insistently.

In preparing it, I have been greatly assisted by the expertise of staff working for my counterpart, the Controller and Auditor-General. I discovered that many of the problems I encountered have – from a public accountability and public finance perspective – been long identified as weaknesses by his office. The commonality of our conclusions was such that I made the entire draft of this report available to the Auditor-General.

In the course of our exchanges, the Auditor-General neatly summed up the objective that lies at the heart of public accountability in these terms:

“At any level of government, effective public accountability systems should enable the public and Parliament to understand what the Government has set out to achieve and – equally importantly – what progress is being made as a result of spending public money. Too often we simply do not get information that answers these questions. Yet these are among the questions that Parliament and the public care most about.”

The recommendations in this report propose a system that will answer some of these questions – at least for the environment. Their immediate audience are the Environment Committee and Finance and Expenditure Committee. It is their responsibility to hold governments to account for what they claim they are trying to achieve and how effective those efforts are. They cannot do so with the information currently made available to them.

Providing that information will require some investment. It is tiny in the scheme of things. I acknowledge that deciding to make that investment will not win a single vote. But I for one don't want to be issuing a further report five years from now recording ongoing inaction. Rather, I hope to start issuing reports recording real progress based on real data.

What information do parliamentarians need to scrutinise environmental spending?

Members of Parliament need to know about the range of long-term environmental issues (such as climate change or biodiversity loss) that the Government could prioritise, which of those issues the Government is actually spending money on and the impacts of that spending on the environment.

They need to be able to form a view about the reasonableness of the Government's choice of environmental outcomes, whether it is spending too little, roughly the right amount or too much to achieve them, and whether whatever is being spent is being spent effectively.

To hold a government to account, parliamentarians would benefit from at least two sets of connections between information about the environment and government spending.

At a high level, parliamentarians need to be able to see the broad relationship between environmental challenges, environmental outcomes and government spending. This would enable a coarse understanding of whether the Government is focusing its money in the right areas and whether that spending is making a positive difference to the trajectory of long-term environmental issues.

At a more granular level, parliamentarians need to be able to track more precise links between specifically desired environmental outcomes, particular environmental initiatives and the results of monitoring and evaluation. These kinds of links would facilitate a detailed tracking of the effectiveness of government spending.

In more systematic terms, parliamentarians need:

- a clear statement of the state and trajectory of long-term environmental issues
- a clear statement of environmental outcomes that will endure across successive parliaments
- a clear statement of the environmental outcomes the Government of the moment is specifically
- prioritising
- a clear statement of how the Government intends to achieve those outcomes
- a whole of government account of environmentally related spending that can be mapped to
- those outcomes
- a whole of government account of the key initiatives that contribute to those outcomes
- environmental monitoring that tracks progress against those outcomes via specified measures
- evaluation of the impact of those key initiatives on those outcomes
- whole of government performance reporting that links key initiatives to those outcomes
- consistency in reporting.

Setting it out like this sounds like a daunting project. But quite a lot of the raw material that is implied already exists. It is just poorly collated or labelled. And where it does not exist, there are systems that can be used to provide it. This is not about wheel reinvention. It is about reassembling a wheel that was not designed to be very useful.

A nationally critical investment

If I was asked to sum up the problems exposed by the three reports that preceded this one in a single sentence each, I would level the following charges:

- We have an opportunistic environmental reporting system that relies on fragmented and patchy environmental monitoring and, as a result, is unable to provide a reliable picture of the state of our environment.

- The funding of environmental research is largely detached from the endless strategies and roadmaps we invent and from the output of environmental monitoring and reporting systems.
- We have a budget process that lacks the capability to consistently raise and address the long-term environmental challenges that we face.

This final report draws on the learnings of my prior reports and calls for:

- foundational investments in environmental information
- clarity about why we are prioritising certain environmental issues (and not others)
- transparency about what environmental outcomes the Government is aiming for, what the Government plans to do to achieve them and how much it spends as part of that response
- accountability for the results of that spending.

The one partial exception appears to be climate change, where we have good information as a result of meeting international reporting requirements. We also have policy instruments, such as the emissions trading scheme, that generate both information and revenue.

The questions I keep asking myself are: Why do we need an international agreement to provide the incentive to generate good information and report properly about what we are doing? Why is it that we cannot summon the same determination to take all environmental monitoring seriously and then use that to determine our research priorities and the way we invest in trying to protect our land, water and biodiversity?

There is no shortage of alarming signs of environmental deterioration and there will always be hard choices to make. There will also be uncertainty attached to those choices. There should not, however, have to be poorly informed choices. But there will be if some foundational investments in environmental information continue to be avoided.

The public finance system needs to resource environmental reporting and environmental research sufficiently to match the scale of the environmental challenges we face. This is the number one priority that must be addressed if we are to have a hope of outflanking some of these challenges.

It is unfortunate that investments in information are probably the easiest expenditure to continue to defer. There are certainly no votes at risk and the topic will not inspire protests. But before the Government embarks on any major new environmental spending, it should sort out environmental reporting and research and the links between them. This represents a nationally critical investment. If it is made, the Government will then be in a better position to sort out its priorities and reflect them in its expenditure decisions.

That investment needs to incorporate Māori expectations.

Recommendations focused on clarity within government and transparency to the outside

The balance of the recommendations in this report are designed to ensure that the actions of the Government are focused on the most important environmental outcomes, that the effectiveness of those actions can be assessed, and that Members of Parliament and citizens can hold governments to account for decisions made and decisions postponed.

In my review of budget process, I foreshadowed the focus of this report in these terms:

“The basis on which long-run environmental issues are handled in the budget priority setting process needs to be examined. The Minister of Finance should receive reporting on how well existing policies and initiatives are addressing the environmental issues that are being identified by state of the environment reporting. This briefing should include how much expenditure is allocated to each of the environmental issues and what is known about the effectiveness of that expenditure. The Minister of Finance should then, each year at the time of the presentation of the budget, publish a report that outlines how new fiscal initiatives as well as any changes to baseline expenditure respond to the environmental issues identified. Such a process should be provided for in statute and be linked to reporting under the Environmental Reporting Act 2015.”⁴

I am now in a position to propose a way to achieve this.

I am making three recommendations aimed at improving the clarity of decision making and the accountability of the Government for decisions made and decisions postponed. They are:

- Recommendation 2: The Government should clearly state its environmental outcomes and how it will achieve them.
- Recommendation 3: Agencies should tag expenditure that relates to the Government’s environmental outcomes and report on the contribution they have made to those outcomes.
- Recommendation 4: The Government should provide a whole of government report to the House on the expenditure it allocates to its environmental outcomes and the progress that is being made towards those outcomes for Parliament to examine.

These three recommendations aim to provide clarity and transparency about how central government is responding to the environmental issues that state of the environment reporting identifies. Local government will need to be part of this journey but additional work is required to consider how it could be integrated into my proposals.

These recommendations are not about wheel reinvention or perfect standardisation. Significant advances can be made by better collating and leveraging existing material, knowledge and systems. I also recognise that different environmental issues will need to be tackled differently, will require different kinds of coordination within and beyond government, and will demand different kinds of reporting.

Recommendation 4: The Government should provide a whole of government report to the House on the expenditure it allocates to its environmental outcomes and the progress that is being made towards those outcomes for Parliament to examine.

Achieving the Government’s environmental outcomes will often require cross-agency action and collaboration. While annual reports might be a good way for Parliament to assess an agency’s contribution to an outcome, they are not a good way to assess progress towards an environmental outcome to which multiple agencies contribute. Doing that requires information aggregated by outcome rather than by appropriation or agency.

Currently there is no authoritative place to easily see what the Government is doing to achieve its environmental outcomes, what it is spending on the environment and the impact of that spending on the environment. Though reporting requirements associated with the

⁴ See <https://www.pce.parliament.nz/publications/wellbeing-budgets-and-the-environment>.

Natural Resources Cluster may provide new opportunities, existing mechanisms do not sufficiently support performance reporting above the agency level. The information that is available is buried in different reports and documents.

I have spent the best part of two years trying to make sense of this information with the assistance of a small but increasingly well-informed team. If we have struggled, how can we expect parliamentarians, select committees or members of the public to do this?

If agencies were required to tag expenditure to outcomes in a consistent way, the Treasury would easily be able to generate an annual budgetary annex aggregating expenditure against outcomes at a whole of government level. Even in the absence of consistent information standards across agencies, it would still be possible to generate such an annex. However, it would have similar limitations to my attempt in chapter three to generate an estimate of environmental expenditure.

Expenditure is a means, not an end. Therefore, any information about tagged expenditure needs to be presented alongside analysis of progress towards outcomes. Indicators of progress mapped to outcomes would be a valuable input into debates about the adequacy of the Government's response. It would help answer questions like: "Is it doing enough?" and "Is money being spent for no real value added?" Where there are no quantitative indicators, a qualitative assessment should be provided.

Annual reports already require assessments of effectiveness and performance measures that make sense for agencies. But we need to be able to measure and assess progress towards environmental outcomes at the whole of government level.

There can be a tension between what agencies want to provide to meet their reporting obligations, and what Members of Parliament and citizens want to know. Provided that it is focused on the kinds of things that are meaningful to parliamentarians and citizens, whole of government reporting would fill this gap.

We already report progress against a whole of government outcome for one environmental outcome – climate action – through the accountability process set up for the emissions reduction plan. That is a complex, detailed and prescriptive requirement.

I am proposing something much simpler for other environmental outcomes, akin to the annual requirement to report progress in alleviating child poverty. It would be a simple statement of progress towards each outcome, to be scrutinised in tandem with information about the expenditure allocated to those outcomes. Depending on the outcome in question, there should be variation in what would be involved in producing this statement, which agencies should be involved and which ministers should be accountable. While it could take place annually, it should happen at a minimum every three years.

A requirement for whole of government reporting on environmental outcomes would be best achieved by amending the Public Finance Act 1989. Tagging expenditure should take place in the context of budget processes. A progress report of the type that I am proposing is essentially performance reporting at the whole of government level.

An obvious parallel – reporting against child poverty – is already found in the Public Finance Act 1989, where a progress report is explicitly linked to provisions in the Child Poverty Reduction Act 2018. Having a reporting requirement in the Public Finance Act 1989 explicitly linked to the Environmental Reporting Act 2015 (and its proposed amendments) would strengthen links between environmental reporting, strategic planning, and investment.

Select committees already play a role in scrutinising environmental outcomes and the effectiveness of environmental spending at an agency level. They do so without an adequate

information base and without a whole of government lens. My recommendations would provide both of those. They would also make it easy for relevant select committees to:

- examine the reasonableness of the Government's specific environmental outcomes
- assess the effectiveness of expenditure in making progress against those outcomes
- compare the Government's stated plan to achieve those outcomes with what it has actually implemented
- make an assessment of whether the initiatives and actions the Government is undertaking are sufficient to meet those outcomes
- assess the effectiveness of the cooperation between agencies that have lead responsibility for an outcome and the agencies with which they have to interact to deliver those outcomes.

The combined effect of these recommendations would be to encourage governments to be clear and transparent about what they are trying to achieve and the progress that they are making. Provided that this information is provided in a way that is accessible, this will allow parliamentarians and the public alike to have an informed debate about whether the resources being directed to the environment are well prioritised, well spent and making a difference.