



COMPOSITION OF OVERSIGHT MECHANISM OF PARLIAMENTS

1. Introduction

Oversight is important for the continuing process of change and reform underway in South Africa. Oversight mechanisms assist in identifying and responding to shortcomings in the performance of government and Parliament. An important element of oversight is that there should be a common understanding of oversight within an organisation. This would assist in:

- Considering oversight issues and recommendations in a system-wide perspective that would make oversight more effective for individual sections and units, and for the organisation as a whole.
- Greater clarity in reviewing issues addressed and accomplishments achieved by the different units, individually and collectively.
- Assessing the structure and resource levels assigned to internal oversight mechanisms within the organisation, e.g. Audit Committees.
- Judging the overall coherence and effectiveness of the oversight infrastructure within the organisation.

Effective oversight has increasingly been associated with promoting good management practices, but its work still involves four basic components:

- Identifying inefficiency, ineffectiveness, and non-compliance with relevant rules and regulations in the conduct and execution of organisational programmes and activities being undertaken to achieve mandates established by the institution.
- Recommending appropriate corrective action when inefficiencies, ineffectiveness and non-compliance with relevant rules and regulations are identified.
- Approval of recommendations for corrective action.
- Overseeing Implementation of approved recommendations.

It is the final two components, the approval of recommendations for corrective action and overseeing the implementation of approved recommendations, that give meaning and impact to oversight. It is also these components that most require a sharing of responsibility. The concept of shared responsibility for oversight is the basis for efforts to enhance oversight. By its nature, effective oversight requires a partnership among all stakeholders, including senior management of the institution and their internal oversight officials (e.g. internal auditors) and any external oversight mechanisms. All partners have to fulfil their roles in this shared responsibility in order for the oversight function to serve its purpose.

The requirement of shared responsibility for effective oversight is sometimes overlooked, leading to the misconception that strengthened oversight mechanisms can serve as a panacea for management shortcomings in the operations of an organisation. However, effective oversight, in the sense of having impact on the operations of the organisation, cannot be left to oversight mechanisms alone. The oversight mechanism serves to identify problems and weaknesses, as well as opportunities for management to effect improvements,



and to recommend corrective action. However, they do not, and cannot assume operational responsibilities as doing so would undermine their objectivity and independence, which are essential for them to perform their basic function. The proper limits of oversight mechanisms must be maintained in order to protect their independence, which is critical to their capacity to perform their basic function. In addition, any efforts to enhance oversight have to take account of the current infrastructure of oversight mechanisms at work in the organisation.

Internal Oversight Mechanisms¹

Internal control is important because it is, in essence intertwined with and directly affected by the dynamics of organisational governance. Oversight mechanisms, including audit committees and the internal audit function are inseparable from the system of internal control. The United Nations defines internal control as *"...a process, effected by an organisation's leadership and management, designed to provide reasonable assurance regarding the achievement of the organisation's objectives."* It is intended to ensure effectiveness and efficiency of operations, reliability of financial reporting, and compliance with applicable laws and regulations. Ideally, internal control is intended to reduce the risk of fraudulent transactions and mismanagement of resources within the institution.

Internal control/oversight consists of the activities and efforts performed at key levels of an institution that are responsible for effective functioning of internal systems and structures throughout the institution. Invariably, the interested parties in internal control oversight include the political leadership and management of the organisation, as well as internal auditors.

Internal oversight is accountable first and foremost to the accounting authority of an organisation by providing advice on internal control and management practices based on a systematic and independent review of an organisation's entire operations. Internal oversight is therefore a critically important tool of accounting officers for fulfilling their management responsibilities.

In order for the oversight mechanism to play its essential leading role in the shared responsibility for oversight, they need more information that would allow them to:

- Understand how each element of internal oversight is being handled in the different components of the organisation.
- Determine the extent to which the organisation is making effective use of internal oversight for fulfilling its management responsibilities.
- Keep abreast of the status of responsibilities, including actions taken (or not taken) on them by responsible parties.
- Identify issues and problems requiring action by the Executive Authority and/or political heads/presiding officers.

¹ INTOSAI (2004)



Elements of Internal Oversight

The primary objective of an internal oversight mechanism for an organisation is to assist its Accounting Officer in fulfilling his/her management responsibilities by providing advice on the adequacy of internal controls and management practices based on a systematic and independent review of the operations of the entire organisation. Within this context, the generally accepted definitions of the elements of internal oversight in the United Nations system are as follows²:

- **Audit:** examine, review and appraise the use of resources of an organisation to determine if they are being used economically, efficiently, effectively and in compliance with the applicable rules and regulations in order to ascertain the implementation of approved programmes and legislative mandates, and make recommendations for corrective action or improvements where necessary.
- **Evaluation:** determine relevance, efficiency, effectiveness, and impact of programmes and activities in relation to their goals and objectives.
- **Inspection:** perform an Ad hoc on-site review of an organisational unit whenever there are indications that a programme or activity is not being managed effectively or resources not being used efficiently.
- **Monitoring:** keep track of the actual production of outputs of a programme or activity in comparison with commitments in the approved programme budget, and monitor any changes and modifications to the programme in the course of implementation.
- **Investigation:** pursue allegations of violations of regulations, rules, or pertinent administrative issuances; mismanagement; misconduct; waste of resources; and abuses of authority.

External Oversight Mechanisms

Although both internal and external oversight mechanisms seek to assure the effective and efficient functioning of institutions of government, they are different in nature and composition and it is important to maintain the distinction between them because, although they both seek to assure the effective and efficient functioning of the organisation, and use similar methods of data collection and analysis, they are different in nature and composition and fulfil different roles.

While it is the responsibility of management to develop adequate internal control systems, including internal oversight mechanisms, external oversight mechanisms should assure the proper functioning of these internal controls and submit appropriate recommendations when the internal controls are found to be inadequate or missing.

The elements of oversight performed by the operational external oversight mechanisms - audit, evaluation, inspection, and investigation - are parallel in definition to those of the

² UN:Office of Internal Oversight Services (2009)



internal oversight mechanisms. None of the operational external oversight mechanisms has responsibility for monitoring, which is an element unique to internal oversight. Compared to the internal oversight mechanisms, structural arrangements for conducting the elements of external oversight are less complex since relatively fewer mechanisms are involved and each reports independently to Member States through appropriate legislative organs.

2. Background

The primary reason for the Financial Management of Parliament Act no. 10 of 2009 is to make stronger and more solid the independence of Parliament through recognising the principle of the separation of powers, with the main purpose of ensuring efficiency in the use of public finances³.

The Parliament of the Republic of South Africa is in a process of establishing its oversight mechanism through legislative processes. These include the Financial Management of Parliament Act which legislates the management of parliamentary financial assets and procurement of goods and services⁴. However, a more sound governance structure that includes an oversight mechanism is required to support the implementation of this Act. The implementation process of the Financial Management of Parliament Act is the key milestone of Parliament's financial management reform. It is aimed at integrating the various processes that take place within Parliament as part of budgeting, procurement and the financial management system⁵. Section 4(1) of the Financial Management of Parliament Act states that an oversight mechanism of Parliament must maintain oversight of the financial management of Parliament by considering the instructions issued by the parliamentary Executive Authority and considers the annual report submitted to Parliament. As a democratic institution, the Parliament of the Republic of South Africa has an obligation to ensure the values of accountability, transparency, and effective oversight agencies that are accountable to the public as prescribed in the Constitution.

3. The Key Role Players in the Oversight Mechanism of Parliament of RSA

The Financial Management of Parliament Act prescribes different role players to carry out the oversight responsibility of Parliament. The composition of oversight mechanism of Parliament would be encompassing the role-players involved in maintaining oversight over Parliament. The role-players would comprise the Parliamentary Executive Authority (the Speaker and the Chairperson of the National Council of Provinces), the Secretary to Parliament, Members of Parliament from the opposition parties and the ruling party in both parliamentary Houses, parliamentary officials, the National Treasury and the Auditor-General of South Africa. These role players are described below:

³ FFC (2008)

⁴ Financial Management of Parliament Act (2009)

⁵ Financial Management of Parliament Act (2009)



3.1 The Executive Authority

Section 4(2) of the Financial Management of Parliament Act states that the representation of the oversight mechanism of Parliament must be in accordance with the Joint Rules of Parliament. The members of the executive authority, the Deputy Speaker of the National assembly and the permanent Deputy Chairperson of the National Council of Provinces, however may not be members of the oversight mechanism of Parliament and may only participate in the deliberations of the oversight mechanism at request of the oversight mechanism. The members of the Executive Authority are obliged to act in accordance with the Code of Ethics as stated in Schedule 2 of the Financial Management of Parliament Act.

3.2 The Secretary to Parliament

The Financial Management of Parliament Act defines the Accounting Officer as the Secretary to Parliament, and includes any other appropriate person acting as an Accounting Officer. Section 4(3) of the Financial Management Act states that the oversight mechanism may require the Secretary to Parliament to appear before it as Accounting Officer. The Financial Management of Parliament Act also states that the powers to summon the Secretary to Parliament to appear before the oversight mechanism are similar to the powers that parliamentary Committees have under Section 56 and 69 of the Constitution. The Act also states that the Secretary to Parliament is accountable to the executive authority for the financial management of Parliament. Section 9 of the Financial Management of Parliament Act also provides the same responsibilities to the Acting Secretary to Parliament, if the position of the Accounting Officer is vacant, or if the Accounting Officer is unable to perform the functions of the position, therefore, those functions must be performed by another designated official and be stated in writing by the Executive Authority.

3.3 Members of Parliament

Although the Financial Management of Parliament Act is silent about the potential role of Members of Parliament in the oversight mechanism of Parliament, the Constitution and the Joint Rules of Parliament entrust oversight responsibility to Members of Parliament as the representatives of South African citizens. It is therefore given that the composition of the oversight mechanism by Parliament should consist of Members of Parliament from both the National Assembly (NA) and the National Council of Provinces (NCOP). Section 57(1)(a) of the Constitution empowers the National Assembly to determine and control its internal arrangements, proceedings and procedures, while Section 57(1)(b) provides that the National Assembly may make rules and orders concerning its business, with due regard to representative and participatory democracy, accountability, transparency and public involvement. Therefore, Parliament should be guided by the Constitution and the Joint Rules of Parliament in finding ways of involving Members of Parliament in the composition of the oversight mechanism of Parliament.

3.4 Parliamentary Officials

The Financial Management of Parliament Act defines a parliamentary official as an employee of Parliament or any other person to whom any function is delegated in terms of the Act. Section 4(3) of the Financial Management of Parliament Act states that the oversight



mechanism has the same powers as parliamentary Committees to summon parliamentary officials to appear before it in accordance with section 56 and 69 of the Constitution.

3.5 The National Treasury

The National Treasury is established in terms of the Public Finance Management Act of 1999 Section 5(1), which is provided for in Section 216(1) of the Constitution to take measures in order to ensure both transparency and expenditure control in each sphere of government, by introducing the Generally Recognised Accounting Practice; Uniform Expenditure Classifications; and Uniform Treasury Norms and Standards. Section 216(2) of the Constitution provides that the National Treasury must enforce compliance with the measures established in terms of subsection (1), and may stop the transfer of funds to an organ of State if that organ of State commits a serious or persistent material breach of those measures. Therefore, the National Treasury with the responsibility it has been provided by the Constitution will assist the oversight mechanism of Parliament to facilitate its oversight function by setting up performance indicators for Parliament to benchmark its performance. This can be done in conjunction with the new ministry on Monitoring and Evaluation in the Presidency. However, the Constitution does not provide for the executive to oversee the Legislature, therefore, the oversight mechanism of Parliament must not consist of any member of the executive in order to avoid the compromise of the independence of Parliament.

3.6 The Auditor General of South Africa

Section 2(a) of the Public Audit Act, No. 25 of 2004, gives effect to the provisions of the Constitution establishing and assigning auditing functions to the Auditor-General as the supreme audit institution of the Republic of South Africa.⁶ Section 3(b) of the Act provides for the Auditor-General as an institution with full legal capacity, as well as independent and subject only to the Constitution and the law, including the Public Audit Act of 2004.

The South African Constitution provides for Chapter 9 Institutions to facilitate the oversight function over the organs of State.⁷ The Auditor-General is one of the Chapter 9 Institutions that support democracy and are accountable to the National Assembly, as well as having constitutionally guaranteed independence. The Auditor-General of South Africa has a unique role to play with regard to the oversight function as it possesses technical expertise and exercises the special function of auditing of public accounts. Therefore, the interaction between Auditor-General and the oversight mechanism of Parliament is a possible area to explore as there are two key roles of the Auditor-General in relation to the oversight mechanism of Parliament:

- Firstly, together with the oversight mechanism of Parliament the Auditor General can act as a "watch dog" over the financial management of Parliament;
- Secondly, the Auditor-General will support and assist the oversight mechanism in its oversight functions by providing information that is not derived from Parliament.

⁶ Public Audit Act (2004)

⁷ Constitution, (1996)



4. The Composition of oversight bodies of Parliaments

This section of the paper comprises a comparison between four parliaments of the Commonwealth countries that have been identified as consolidated parliamentary financial independence with sound and responsible processes. These Parliaments have established corporate bodies of parliamentarians from across the political spectrum, which among other functions play a key role of in oversight function over parliamentary financial administration.

4.1 Canada⁸

The Parliament of Canada Act of 1985 establishes the Board of Internal Economy.⁹ The board comprises:

- The Speaker, who acts as Chairperson;
- Two members of the Privy Council (appointed to the Board by the government);
- The Leader of the opposition or his or her representative;
- Other members of the House of Commons. Each opposition Party with at least 12 seats in the House is allowed representation on the Board (one member). The ruling party may appoint members who are one less than the total number of the Board;
- The Clerk of the House is the secretary to the Board of internal Economy;

The powers and authority of the Board are provided for in the Parliament of Canada Act, the Standing Orders of the House of Commons, and the Parliamentary Employment and Staff Relations Act of 1999. The Board is the governing body of the House of Commons and has the legal authority to act on all financial and administrative matters respecting the House of Commons. As part of its responsibilities, the Board:¹⁰

- Examines and approves the annual budget estimates of the House of Commons;
- Approves and controls the budget expenditure of the Committees of the House of Commons, and tables an annual financial report outlining expenses incurred by each Committee;
- Approves salary scales for non-unionised employees and authorises officials of the House to negotiate the renewal of collective agreements of unionised employees and ratifies such agreements.

4.2 New Zealand

The Parliament Service Act, 2000 of New Zealand establishes the Parliamentary Service Commission (PSC) which among others of its functions plays an oversight role over Parliament of New Zealand.¹¹ This Commission consists of the following:

⁸ Parliament of Canada Act

⁹ Section 50(1) of the Act

¹⁰ Canada House of Commons

¹¹ Parliamentary Service Act of New Zealand



- The Speaker, who is the Chairperson of the Commission;
- The Leader of the House or a Member of Parliament nominated from time to time by the Leader of the House;
- The Leader of the opposition or a Member of Parliament nominated from time to time by Leader of the House;
- Such number of members of Parliament as they are appointed from time to time by the resolution of the House of Representatives. One member for each recognised Party with 1 or more members. An additional member for each recognised Party with 30 or more members excluding the Speaker, the Leader of the House and the Leader of the opposition.

The functions of the Commission are enacted in the Parliamentary Service Act, and they include the following:

- To advise the Speaker of the nature of service to be provided to the House and to Members of Parliament;
- To recommend to the Speaker the adoption of criteria governing funding entitlements for parliamentary purposes;
- To recommend to the Speaker the Members of the Review Committee;
- To consider and comment of draft reports prepared by the Review Committee;

The work of the Commission is complemented by the Review Committee, which provides for an independent review of parliamentary appropriations. Section 20 of the Parliament Service Act requires the Speaker to establish a review committee at least once during the term of each Parliament. This Committee comprises three persons who are not members or officers of Parliament or employees of the Parliamentary Service Commission and takes into account any of its recommendations. The attributes of the people to be appointed to the Committee are not clearly stated in the Act, it only provides that the Speaker may appoint on any terms and conditions. In performing its responsibilities, the review committee considers:

- The nature, quantity and quality of Parliament administrative and support services;
- The nature, quantity and quality of administrative and support services required by Members of Parliament to effectively perform their functions;
- The funding needs of the recognised parties and Members of Parliament;
- The scope for efficiency gains in the delivery of administrative and support services to the House and its Members;
- The necessary investments to further the aims of high quality representation by Members of Parliament and high quality legislation;
- The need for fiscal responsibility.

Before submitting the report to the Speaker, the review committee must consult with the Parliamentary Service Commission to seek its views on the matters to be included in the report and any comments on preliminary assessments of recommendations. The Speaker must present the report to the House of Representatives within six sitting days after the date of submission to him or her.



4.3 United Kingdom¹²

The Administration of the House of Commons is legislated through the House of Commons Administration Act of 1978. This Act establishes the House of Commons Commission to perform functions as conferred to it, by the Act. The Commission consists of:

- The Speaker, who chairs the Commission;
- The Leader of the House of Commons;
- A member of the House of Commons nominated by the Leader of the Opposition;
- Three other members of the House appointed by the House, none of whom shall be a Minister of the Crown.

Among its functions, the Commission:

- Appoints all staff in the House Departments and determine their numbers remuneration and other terms and conditions of services;
- Ensures that pensions and other similar benefits of staff are in line with the principal Civil Service Pension Scheme;
- Ensures that the complementing, grading and pay of staff are kept in line with those of the Home Civil Service;
- Each year, prepares and presents before the House an estimate of expenditure of the House Departments;
- Appoints an Accounting Officer to be responsible for the accounting of the budget of Parliament.

Schedule 1 of the House of Commons Administration Act empowers the Commission to delegate its functions. As a result of these delegating powers, some of the functions were delegated to the Finance and Service Committee and the Management Board. The Finance and Service Committee is established in terms of Standing Order No. 144 to consider expenditure on, and the administration of services for the House of Commons. It is responsible for the detailed scrutiny of the House Budget. Among its functions, the Committee:¹³

- Prepares with the assistance of the Management Board, the budget estimate for the House of Commons;
- Monitors the financial performance of the House Administration;
- Advises the Commission and the Speaker on the financial and administrative implications of any recommendations made by the Administration Committee.

The Finance and Service Committee comprises eleven members including the Chairman of the Administration Committee, and is chaired by a member of the House of Commons Commission.

¹² House of commons Administration Act

¹³ UK Parliament



The Management Board consists of the Clerk of the House as the Chief Executive and Chairman, the Director Generals of the four House Departments and a maximum of two external advisors. The Management Board among others its functions is responsible for:¹⁴

- The management of services provided for the House of Commons by the House Departments;
- Advising the Corporate Officer of the House of Commons on the nature and levels should be provided by joint departments of the two Houses;
- Giving advice on these services to the Commission and the Finance and Service Committee.

The Commission has delegated most of its statutory functions to the Board relating to the employment of staff, including keeping terms and conditions in line with those of the Civil Service. The Management Board's work is reflected in the Commission's Annual Report.

The House of Commons further established an Administration Estimate Audit Committee, which comprises six members. Three members of the Committee are members of Parliament and three are external members. The Committee acts on behalf of the Commission and its responsibilities include:

- General oversight of the work of internal audit and review, with particular emphasis on promoting economy, efficiency and effectiveness, on value-for-money, and on risk assessment and control assurance;
- Receives and considers reports from Internal Audit, together with management letters and other external audit material;
- Monitor and review the external auditor's independence, objectivity and effectiveness, and to make recommendations to the Commission about the external auditor's appointment;
- Advises the Accounting Officer in the exercise of his responsibilities;
- Considers and recommends to the Accounting Officer the internal review programme;
- Encourage best financial practices, use of resources and governance in the House administration;
- Reports annually, on a report that will be published with the Commission's Annual Report.

4.4 Malawi¹⁵

In Malawi, the Parliamentary Service Commission (PSC) is a policy making body over parliamentary administrative support services. The Parliamentary Service Commission Act was promulgated in 1998. The Act separates the parliamentary service from the civil service. The Parliamentary Service Commission Act also establishes the Commission as indicated below:

- The Speaker presides as the Chairperson of the Commission;
- The Commission consists of five members from representative political parties;

¹⁴ Ibid

¹⁵ Parliamentary Service Commission Act (1998)



- The Clerk of Parliament is also a member of the Commission.

The functions of the Commission are enacted by Parliament as follows:

- To prepare its own budget and exercise the budgetary control over the parliamentary service;
- To determine the size and organisation of the parliamentary service;
- To oversee the administration of services performed by the parliamentary service officials;
- To establish a department in Parliament as it may be necessary for the efficient management of Parliament;
- To hold parliamentary administrative support staff and Members of Parliament accountable in all financial and administrative matters;
- To approve the recommendations regarding conditions of service for Members of Parliament;
- To appoint persons to hold office in parliamentary service, confirm promotions, decide on disciplinary matters and removal of persons from office.

5. Conclusion

The selected countries in this study all have corporate bodies that serve to play the oversight role over the administrative and financial management of Parliament. The composition of these bodies does not differ that much, with all being chaired by the Speaker. All recognised parties are represented in these bodies even though different criterion is used. Interestingly, these bodies have a fundamental role to play in the administration of parliamentary budgets, accountability and oversight. In the United Kingdom, the House of Commons Commission prepares and presents before the House of Commons an Estimate of Expenditure for each year; while in New Zealand the Parliament Service Commission recommends to the Speaker the adoption of criteria governing funding entitlement, and in Canada the board of Internal Economy acts on all financial and administrative matters.

Furthermore, these bodies established their sub-structures for delegating some of their work to these sub-structures. For example, in the case of UK parliament, structures such as the Finance and Service Committee, Administration Committee, Management Board and Administration Estimate Audit Committee were composed to augment the House of Commons Commission, while the Review Committee was established to augment the work of the Parliamentary Service Commission in New Zealand. In all the selected Parliaments, the composition of these bodies includes both members of the ruling Party and members of opposition Parties, even though different numbers are considered by different Parliaments. It is therefore significant for the South African Parliament to draw experiences from these countries and compose its oversight mechanism that will be best suited for the purpose of ensuring accountability of its finance resources.



Sources

AFFReC 2005

Australian Democrats, Financial Independence of Parliament. 31 August 2007.

Canadian House of Commons, Compendium of Procedure. Article Extracted on 12/01/2010 at www.parl.gc.ca/compendium-e.

Financial and Fiscal Commission (2008) Preliminary Comments on the Financial Management of Parliament Bill (2008)

International Organisation of Supreme Audit Institution: INTOSA (2004) *Guidelines for Internal Control Standards for the Public Sector*.

Malawi Parliamentary Service Commission Act, 1998.

New Zealand Parliament, Parliamentary Service Act, No. 17 of 2000.

Parliament of Canada Act, 1985

Republic of South Africa, Constitution, 1996

Republic of South Africa Public Audit Act, No. 25 of 2004

United Nations Office of Internal Oversight Services (2009) *United Nations Internal Oversight Information Booklet*, August 2009.

United Nations Oversight Manuals (nd)
http://www.un.org/Depts/oios/pages/oversight_manuals.html

United Kingdom Parliament, Management Board. Extracted 12/01/2010 at http://www.parliament.uk/about/commons/house_of_commons_commission_audit_committee

World Bank Institute, Administration and Financing of Parliament. May 2005