

PLPP course – Final Research Assignment
Analysing Government Responses to Committee Reports
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Introduction

House of Representative committees undertake regular inquiries into issues to review the operations of government policy, to identify where there are policy gaps, and to examine new possible directions for policy. Most inquiries result in a report that recommends policy changes to the Australian Government. Following this, the Government is expected to release a formal response to the report detailing whether they intend to accept each of the committee's recommendations.

This paper attempts to discern whether House of Representative committees are having an influence on the development of policy within the Australian Government. While not discounting the likelihood that committees exert various forms of indirect influence on policy development, the focus of this paper is on direct influence on policy as measured through an analysis of formal government responses to committee reports.

The paper compares government responses to House of Representative committee reports to those received by NSW Legislative Assembly committee reports. It also looks at measures of timeliness in government responses and considers a case study where the adequacy of a government response was questioned by a committee. Overall the analysis finds that House of Representative committees are less likely than their NSW counterparts to have their recommendations accepted. Additionally, the analysis finds that the Australian Government is performing very poorly in relation to preparing responses on time. These two findings are suggestive of House of Representative committees not being seen as important actors in the policy development process.

Background

Parliamentary committees have existed in the Australian Parliament since federation. In the early days committees spent a lot of their time investigating the cases of individuals who had been subject to some sorts of mistreatment — the type of cases that today would be dealt with by an ombudsmen but at that time were dealt with by Parliament.¹

In the Australian Parliament the modern committee system began in 1970 in the Senate, with the creation of estimates committees, and legislative and general

¹ Laing, R., 'The Senate Committee System', Papers on Parliament No. 54, December 2010, <https://www.aph.gov.au/~/~/link.aspx?id=E4CAD8F5655740F7977F60899D7477BA&z=z>, Accessed 9 January 2018.

purpose standing committees.² In 1987, the House of Representatives introduced its modern committee system through the creation of eight general purpose standing committees.³ The development of the modern committee system has been described as the 'most important reform to parliamentary practices since federation.'⁴

At the time of the reforms to the House committees, one Member of the House suggested that these new committees would provide backbenchers with the opportunities to be involved in 'thorough, comprehensive and careful study of particularly important questions'. In addition they would provide Ministers with an additional forum 'to which they could refer issues they regarded as needing further study'.⁵

Halligan describes parliamentary committees as having four policy roles: strategic investigation, appraisal of legislation, scrutiny, and review.⁶ Appraisal of legislation and scrutiny are narrow-focussed roles most commonly undertaken in bills inquiries and Senate estimates. By contrast strategic investigation and review are roles with a broad focus, the first being a forward-looking analysis of potential policy options; and review being a backward-looking analysis of the effectiveness of existing policy and whether there are policy gaps. Committees most commonly fulfil the strategic investigation and review roles by undertaking broad public policy inquiries.⁷

House committee inquiries can be instigated by: referral from the House or a Minister; due to the certain statutory conditions being met; or by inquiring into the annual report of a government agency. Technically, House Standing Committee inquiries are most commonly referred from a Minister, but in practice the initial idea for the inquiry could come from the Minister or the committee and the details of the terms of reference are finalised through negotiation between the Minister and the committee.

² Laing, R., 'The Senate Committee System', Papers on Parliament No. 54, December 2010, <https://www.aph.gov.au/~/~/link.aspx?id=E4CAD8F5655740F7977F60899D7477BA&z=z>, Accessed 9 January 2018.
[E4CAD8F5655740F7977F60899D7477BA&z=z](https://www.aph.gov.au/~/~/link.aspx?id=E4CAD8F5655740F7977F60899D7477BA&z=z), Accessed 9 January 2018.

³ Speaker of the House of Representatives, *Progress Report on House of Representatives Standing Committees*, 23rd Presiding Officers and Clerks Conference Adelaide, June 1992, p. 1.

⁴ Rodrigues, M., 2008, 'Parliamentary Inquiries as a Form of Policy Evaluation', *Australasian Parliamentary Review*, Autumn 2008, Vol. 23 (1), p. 25.

⁵ Speaker of the House of Representatives, *Progress Report on House of Representatives Standing Committees*, 23rd Presiding Officers and Clerks Conference Adelaide, June 1992, p. 2.

⁶ Halligan, J., 'Parliamentary Committee Roles in Facilitating Public Policy at the Commonwealth Level', *Australasian Parliamentary Review*, Spring 2008, Vol. 23(2), p. 137.

⁷ Halligan, J., 'Parliamentary Committee Roles in Facilitating Public Policy at the Commonwealth Level', *Australasian Parliamentary Review*, Spring 2008, Vol. 23(2), p. 138.

Committee inquiries provide a public forum where a broad range of stakeholders can present views on policy areas through submissions and appearing at public hearings. Committee inquiries can offer Ministers an opportunity to gauge the response of stakeholders to policies that have been recently implemented. In addition, they provide an opportunity to explore new ideas in fields that are undergoing significant change or where there is a need for a new policy direction. One former minister from the United Kingdom stated that he took committee recommendations more seriously than those from other sources as the committees apply a political filter to potential proposals.⁸

Senate committees tend to conduct more controversial inquiries and be more critical of government than House committees and therefore they also tend to attract greater academic and media attention.⁹ One advantage that House committees may, however, have over Senate committees is that, as the members of the governing party generally hold the majority and the position of chair, they may be in a better position to make recommendations that are politically palatable to the government. In addition, as House committees generally focus on less contentious issues, in most cases committee members will seek to develop consensus recommendations that avoid the need for dissenting reports.¹⁰

These factors suggest that while Senate committees may be better placed to scrutinise government activities, House committees should be in a strong position to develop new policy proposals, or reforms of current policies, that can be accepted by government.

Government Responses to Committee Recommendations

Following the 1987 reforms to the House committee system governments undertook to respond to committee recommendations within three months — ‘although there was no formal requirement that they do so’.¹¹ Writing in 1992, the Speaker of the House stated that although government did ‘not always meet the deadline, most reports do receive a formal response setting out the Government’s intentions in relation to each recommendation contained in the

⁸ Benton, M & Russell M., 2012, ‘Assessing the Impact of Parliamentary Oversight Committees: The Select Committees in the British House of Commons’ *Parliamentary Affairs*, 2012, p. 790.

⁹ Rodrigues, M., 2008, ‘Parliamentary Inquiries as a Form of Policy Evaluation’, *Australasian Parliamentary Review*, Autumn 2008, Vol. 23 (1), p. 26.

¹⁰ Parliament of Australia, ‘Infosheet 4 – Committees’, <https://www.aph.gov.au/About-Parliament/House-of-Representatives/Powers-practice-and-procedure/00-Infosheets/Infosheet-4-Committees>, Accessed 8 January 2018.

¹¹ House of Representatives Standing Committee on Procedure, *Interim Report No.3: Monitoring and review of procedural changes implemented in the 43rd Parliament*, February 2012, p. 11.

report'.¹² Over time, however, this practice eroded with committees very rarely receiving a report within the three month timeframe and many reports not receiving any formal response.¹³

Following the 2010 election, the *Agreement for a Better Parliament: Parliamentary Reform*, signed by political parties and non-aligned members, made several changes to the operations of Committees in the Australian Parliament.¹⁴ As part of these changes the timeframe for government responses was extended to six months. This was confirmed by the House passing a resolution on 29 September 2010 requiring the Government response be provided within six months of report tabling. If the Government does not provide a response within this timeframe the responsible Minister is required to provide an explanation for the delay to the House.¹⁵

Assessing the Influence of Committees

Monk stated that due to the ambiguous position of committees within the structure of policy making it can be difficult to evaluate their influence as they can at times 'produce landmark reports' while at other times their work can be 'routine and without effect'.¹⁶

Attempts to assess the influence of committees have used both quantitative and qualitative methods of evaluation. Quantitative methods have focussed on analysing whether committee recommendations are accepted by government. Qualitative studies have considered broader perceptions of influence such as whether stakeholders perceive committees to be influential.

This paper primarily uses a quantitative approach by analysing government responses to committee recommendations. This approach follows on from the studies of Benton and Russell, Hill, and Monk outlined below. As well as considering whether recommendations are accepted this paper also considers the timeliness, or otherwise, of government responses. Timeliness is an important factor for committees as they often inquire into fields that are

¹² Speaker of the House of Representatives, *Progress Report on House of Representatives Standing Committees*, 23rd Presiding Officers and Clerks Conference Adelaide, June 1992, p. 4.

¹³ House of Representatives Standing Committee on Procedure, *Interim Report No.3: Monitoring and review of procedural changes implemented in the 43rd Parliament*, February 2012, p. 11.

¹⁴ House of Representatives Standing Committee on Procedure, *Interim Report No.3: Monitoring and review of procedural changes implemented in the 43rd Parliament*, February 2012, pp. 1-2.

¹⁵ House of Representatives Standing Committee on Procedure, *Monitoring and review of procedural changes implemented in the 43rd Parliament: 4th Report*, November 2012, pp 46-47.

¹⁶ Monk, D, 2010, 'A Framework for Evaluating the Performance of Committees in Westminster Parliaments', *The Journal of Legislative Studies*, Vol, 16, No. 1, March 2010, p. 1.

undergoing significant change and so a delayed response can lead to recommendations becoming outdated.

Limitations of Responses as Measure of Influence

Focussing solely on government responses to committee recommendations as a measure of committee influence has also been criticised. Having recommendations accepted does not necessarily demonstrate that a committee has influence. For example, a committee could deliberately include 'soft' recommendations that make little significant policy change but are more likely to be accepted.¹⁷

In addition, although a government may agree to a recommendation this does not guarantee that it will actually implement the recommendation. A recent case involving the House Standing Committee on Tax and Revenue illustrates this point.

In November 2015 the Tax and Revenue Committee released its report on its Inquiry into the Tax Expenditure Statement. While predominantly an inquiry into the reporting of tax system measures by Treasury the report also contained commentary on how executive agencies respond to the scrutiny of parliament via committees and the Australian National Audit Office (ANAO).

The inquiry looked at the Treasury's implementation of previous recommendations from ANAO and Joint Committee on Public Accounts and Audit (JCPAA) reports. The Tax and Revenue Committee found that Treasury had discontinued the implementation of a recommendation it had previously agreed to.¹⁸ The Tax and Revenue Committee accepted that agencies may decide not to implement recommendations they have previously agreed to 'if circumstances have changed so as to allow a reasonable explanation'.¹⁹ The Committee expressed concern, however, that the Treasury had not alerted the ANAO or JCPAA to the fact that it was no longer implementing a recommendation it had formally agreed to and stated that in this instance, 'an obligation lies with Treasury to communicate and explain this change. It should not have to be discovered by a follow-up inquiry'.²⁰

Another recent case shows how a focus on formal government responses could underestimate the influence of a committee. In September 2014 the Joint Select Committee on Northern Australia released its report *Pivot North*. Following this, in June 2015, the Government released its White Paper on Developing Northern

¹⁷ Halligan, J., 'Parliamentary Committee Roles in Facilitating Public Policy at the Commonwealth Level', *Australasian Parliamentary Review*, Spring 2008, Vol. 23(2), p. 144.

¹⁸ House of Representatives Standing Committee on Tax and Revenue, *The Tax Expenditures Statement*, November 2015, p. 17.

¹⁹ House of Representatives Standing Committee on Tax and Revenue, *The Tax Expenditures Statement*, November 2015, p. 18.

²⁰ House of Representatives Standing Committee on Tax and Revenue, *The Tax Expenditures Statement*, November 2015, p. 18.

Australia which announced funding for several measures that had been recommended in *Pivot North*. Despite this, the formal government response to *Pivot North* did not arrive until October 2017, more than three years after the report's release.²¹

Nevertheless, the case of *Pivot North*, where a committee report appears to have directly influenced government policy without this being acknowledged in a formal government response (at least for three years) is probably the exception rather than the norm.

A more common reason why focussing on government responses may underestimate the influence of committees is that they cannot capture the ways that committee inquiries indirectly influence policy. Committee inquiries can indirectly influence policy in a number of ways including through educating members (some of whom may in the future become Ministers) on specific policy issues; by providing an avenue for groups who have not been successful in lobbying Ministers to have their views heard; and by drawing attention to niche or overlooked issues that may then become topics of public debate. Benton and Russell suggest that possibly the most important (but least visible) way that committees influence policy is by making public servants always consider how their actions could appear if they were forced to explain them to a parliamentary committee.²²

These indirect forms of influence are likely to be an important, perhaps even the most important, way that committees influence policy, but they are also very difficult to measure. While not discounting the possibility of indirect forms of influence, this paper focuses on the direct influence of committees through the acceptance of recommendations. Despite being an incomplete measure of influence, the acceptance of recommendations is not an unreasonable topic for analysis. Indeed, most stakeholders and members of the public who participate in a committee inquiry do so in the hope that the committee will make a recommendation that changes government policy, not merely in the hope that they will educate the committee members on the issues at stake.

Previous Research on the Acceptance of Committee Recommendations

Three previous pieces of research have focussed specifically on the acceptance of recommendations as a measure of committee influence. The largest analysis of the three was undertaken by Benton and Russell who analysed 216 reports of select committees in the British House of Commons. Benton and Russell found that the reports made on average 16 recommendations and that around 40% of

²¹ Australian Government, *Response to the Joint Select Committee on Northern Australia Final Report: Pivot North*, October 2017.

²² Benton, M & Russell M., 2012, 'Assessing the Impact of Parliamentary Oversight Committees: The Select Committees in the British House of Commons' *Parliamentary Affairs*, 2012, p. 792.

recommendations called for small policy changes while the rest called for larger changes of policy.²³

Benton and Russell found that government fully accepted 12% of recommendations; partially or implicitly accepted another 28%; neither accepted nor rejected 25%; partially or implicitly rejected 28%; and fully rejected another 5%.²⁴ Benton and Russell also found that, while recommendations suggesting small policy changes were more likely to be accepted, 34% of medium level changes and 14% of large change recommendations were at least partially accepted. Extrapolating this across all inquiries Benton and Russell suggested that House of Commons Select Committees had over 200 substantive (medium or large change) recommendations accepted each year.²⁵ Benton and Russell stated that although the success rates of individual recommendations were not high that 'in absolute terms large numbers are implemented. We thus conclude that committee recommendations are in fact considerably influential.'²⁶

Hill analysed government responses to 43 committee reports of the New Zealand Parliament in the period between 1999 and 2005. Hill found that, of the reports that received responses, 20 responses by government made comments on the recommendations rather than directly accepting or rejecting the recommendations. Only eight reports received responses explicitly accepting or rejecting each recommendation. Of these responses, in two cases all the recommendations were accepted and in the other six cases there was a mixture of acceptance and rejection of recommendations.²⁷

Monk analysed a sample of 100 reports (including 33 bills inquiry reports) from Joint, Senate, and House committees of the 40th Australian Parliament (2001 to 2004). 68% of these reports received government responses, although Monk noted that in some cases responses were not received until five years after the presentation of the report.²⁸ Monk found that, on average the reports contained

²³ Benton, M & Russell M., 2012, 'Assessing the Impact of Parliamentary Oversight Committees: The Select Committees in the British House of Commons' *Parliamentary Affairs*, 2012, p. 779.

²⁴ Benton, M & Russell M., 2012, 'Assessing the Impact of Parliamentary Oversight Committees: The Select Committees in the British House of Commons' *Parliamentary Affairs*, 2012, p. 780.

²⁵ Benton, M & Russell M., 2012, 'Assessing the Impact of Parliamentary Oversight Committees: The Select Committees in the British House of Commons' *Parliamentary Affairs*, 2012, p. 781.

²⁶ Benton, M & Russell M., 2012, 'Assessing the Impact of Parliamentary Oversight Committees: The Select Committees in the British House of Commons' *Parliamentary Affairs*, 2012, p. 782.

²⁷ Hill G, 2005, 'The Impact of New Zealand Parliamentary Inquiries', pp 8-9.

²⁸ Monk, D., 2012, 'Committee Inquiries in the Australian Parliament and their Influence on Government: Government Acceptance of Recommendations as a Measure of Parliamentary Performance', *The Journal of Legislative Studies*, 18 (2), p. 143.

11 majority recommendations and three of these recommendations were accepted by government (27% acceptance). Monk also found that virtually no minority recommendations were accepted by government.²⁹

Results

The remainder of this paper details an analysis of government responses to House of Representatives (HoR) standing committee recommendations that is undertaken in three parts. It begins with an analysis of the Speakers Schedule of Outstanding Government Responses between 2008 and 2017 to determine whether Governments are responding to committee recommendations within the timeframe prescribed by the House. The second part of the analysis compares the government responses provided to HoR standing committee recommendations with the responses provided by the NSW Government to recommendations generated by committees of the NSW Legislative Assembly (LA). In particular, the analysis considers the timeliness of the responses provided by the two governments and the likelihood of the recommendations being accepted by government. The analysis concludes with a case study of the *Reviewing Troubled Waters* inquiry. This case study describes the outcomes of an inquiry instigated by a committee's perception that it had received an unsatisfactory response to its recommendations from government.

Further details regarding how these analyses were undertaken is provided in each section. The implications of the three pieces of analysis are synthesised in the discussion section.

Timeliness of Government Responses: Analysis of the Speakers Schedule

In the Australian Parliament the Speaker of the House of Representatives issues the biannual Speakers Schedule of Outstanding Government Responses to Committee Reports (the Speakers Schedule). The Speakers Schedule lists all government responses that are outstanding as well as all responses that have been received in the past six months and whether these responses were received within the expected time frame. As mentioned above, prior to September 2010 the Government was expected to respond to Committee reports within three months. From September 2010 the Government was given six months to respond to Committee reports.

The Speakers Schedule does not include all committee reports. Reports by the Standing Committee on Public Works; the Committee on Privileges and Members' Interests; and the Publications Committee and most reports by the Joint Committee on Human Rights and Joint Committee on Public Accounts and Audit are not included as they do not require a response. Bills inquiry reports are not included as the Government's response is 'apparent in the resumption of

²⁹ Monk, D., 2012, 'Committee Inquiries in the Australian Parliament and their Influence on Government: Government Acceptance of Recommendations as a Measure of Parliamentary Performance', *The Journal of Legislative Studies*, 18 (2), pp. 145-146.

consideration of the relevant legislation by the House'.³⁰ Other reports are listed but noted as not requiring a government response (these are typically inquiries into annual reports or treaties); these reports have been excluded from the analysis below.

Data has been considered from the mid-year Speakers Schedule of each year from 2008 to 2017.³¹ Reports were categorised as: awaiting a response (timeframe expired), awaiting a response (timeframe not expired), response received (late), response received (on time). From 2008 to 2010 the timeframe for the response was three months, and from 2011 to 2017 six months.

Table 1: Response to committee reports as recorded in the Speakers Schedule.

Year	Awaiting response (timeframe expired)	Awaiting response (timeframe not expired)	Response received (late)	Response received (on time)	Total
2008	73	8	19	3	103
2009	79	16	11	0	106
2010	48	13	43	0	104
2011	48	21	13	0	82
2012	46	14	14	9	83
2013	33	39	17	12	101
2014	55	7	13	3	78
2015	49	16	14	4	83
2016	47	23	12	4	86
2017	40	36	24	8	108

Table 1 presents the data from the Speakers Schedules analysed. A degree of fluctuation in the data would be expected from year to year, especially in line with parliamentary cycles – for example in both 2010 and 2013 a relatively high number of response are received and these dates both fall shortly before a federal election. Nevertheless there is an overall similarity to the figures across the years. Only in 2010, 2013, and 2017 does the number of reports awaiting responses whose timeframe has expired drop below 50 % of the overall reports considered. Remarkably, in the four schedules analysed from 2008 to 2011 only 4 out of 395 responses were delivered on time.

Another way to analyse this data is to exclude the reports awaiting responses whose timeframe has not expired — as it is possible that these reports may still

³⁰ Speaker of the House of Representatives, *The Speaker's Schedule of Outstanding Government Responses to Reports of House of Representatives and Joint Committees*, June 2017, p. 2.

³¹ From 2016 the Speakers Schedule included collated figures for the reports awaiting responses and responses received, for the years 2008 to 2015 the figures were collated by the author from the full list provided in the Speakers Schedule. The Speakers Schedules can be found at:

<https://www.aph.gov.au/SpeakersSchedule>

receive a response on time. This is shown in Figure 1. This indicates that there was a slight increase in the number of responses delivered on time once the timeframe was increased to six months in 2010. It is not clear whether this increase is due to timeframe extension or random fluctuations in the data (indeed there was no increase in 2011, but possibly it was too soon for the effect to be apparent). Nevertheless, even after 2010 the peak proportion of reports delivered on time was 19%; therefore, even in the best performing year, more than four out of five responses are not delivered on time. In addition, in all the years analysed more than half of the reports whose timeframe had expired still had not received a government response.

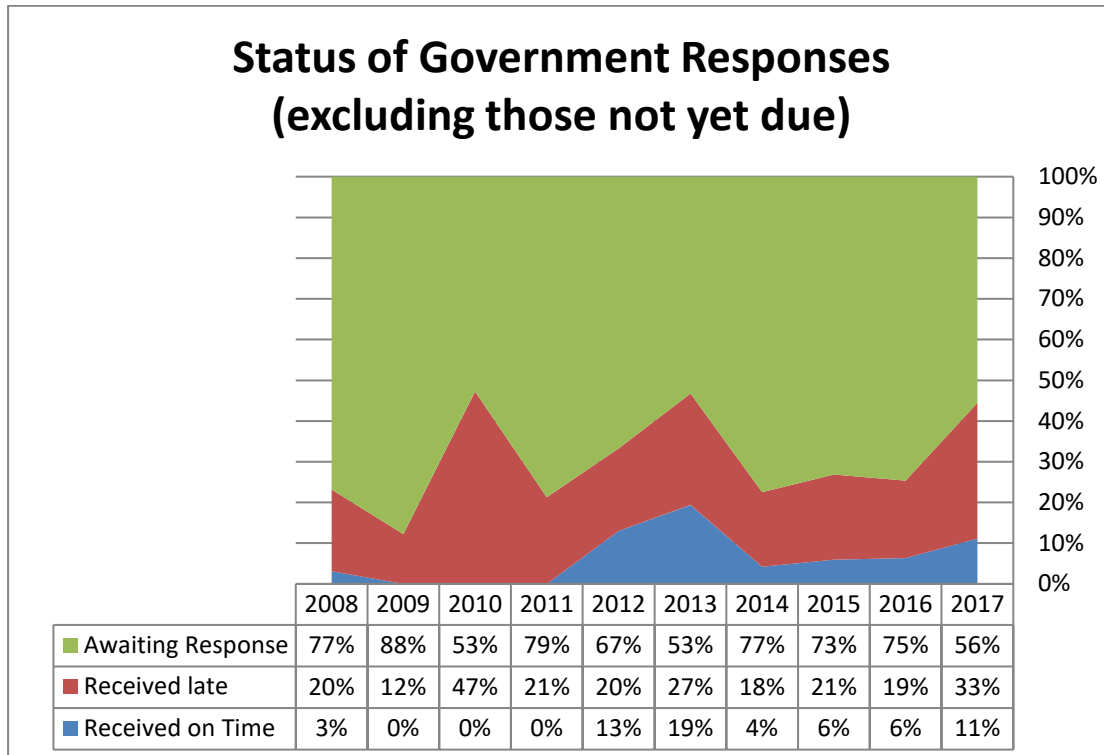


Figure 1: The proportion of Committee reports who are awaiting an overdue government response, received a late response, or received a response on time. Data taken from the Speakers Schedules of Outstanding Government Responses to Reports of House of Representative and Joint Committees.

Comparing Responses to Committee Recommendations in the Australian and NSW Parliaments

To further analyse the quality of government responses to committee recommendations in the Australian House of Representatives it is useful to compare it with the situation in another jurisdiction. The New South Wales Legislative Assembly was chosen as a point of comparison. Like the HoR the Legislative Assembly (LA) is a lower house with committees that undertake investigatory policy inquiries. The LA also publishes government responses alongside other details of committee inquiries, which significantly aids data collection.³²

³² See here: <https://www.parliament.nsw.gov.au/committees/reports/pages/reports.aspx>

The primary interest of this paper is on the influence of investigatory committee inquiries on the development of government policy. Therefore I decided to focus exclusively on standing committees, which are appointed to 'investigate and report on a specific subject area for the life of the parliament'.³³ While some statutory committees can impact on the development of policy, their focus is confined by the limitations of the relevant statute and many are primarily concerned with scrutinising administrative procedures rather than broader policy development.

Similarly domestic committees were excluded as their focus is on the administration and procedures of parliament rather than broader policy issues. Select committees inquiries are setup specifically to look at a certain issue and, as such, are likely to have a greater chance of their recommendations being adopted. While they only make up a small proportion of all inquiries they were excluded as it was likely they could bias the results in a positive direction.

Bills inquiries and annual report inquiries were excluded because of their narrow, non-policy, orientation and interim reports were excluded as they are usually followed by final reports with recommendations.

The timeframe chosen was the parliament immediately preceding the current parliament, as this would ensure that sufficient time had elapsed to allow governments to respond to committee reports. For the HoR this was the 44th Parliament lasting from 12 November 2013 to 9 May 2016. For the LA this was the 55th Parliament running from 3 May 2011 to 6 March 2015.

The Committees and the number of inquiries analysed are recorded in Table 2 and Table 3. In total the responses to 22 committee reports from the HoR and 16 committee reports from the LA were analysed. The analysis was focussed on two primary issues: the timeliness of government responses, and whether committee recommendations were adopted by government.

³³ *NSW Legislative Assembly Practice, Procedure and Privilege*, 'Chapter 26: Committees', p. 1.

Table 2: House of Representative committee reports analysed.

House of Representative Committee	Inquiries Analysed
Agriculture and Industry	3
Communication and the Arts	1
Economics	1
Education and Employment	2
Environment	2
Health and Ageing	3
Indigenous Affairs	1
Infrastructure, Transport and Cities ³⁴	3
Social Policy and Legal Affairs	5
Tax and Revenue	1
TOTAL	22

Table 3: Legislative Assembly committee reports analysed.

Legislative Assembly Committee	Inquiries Analysed
Community Services	1
Economic Development	2
Environment and Regulation	2
Law and Safety	4
Legal Affairs	2
Social Policy	2
State and Regional Development	2
Transport and Infrastructure	1
TOTAL	14

Timeliness of Government Responses

For both HoR and LA committee reports governments are expected to make a formal response to the recommendations within six months of the report being tabled. The date of each government response (if one had been provided) was used to calculate the number of days that have elapsed between the report tabling and the response.

Not surprisingly, the results for the HoR committees were similar to those presented in the analysis of the Speakers Schedule (which uses a larger pool of reports including those from joint committees) above. A slightly greater proportion of House standing committees had received responses but still 41% (9 reports) had not received a response. Among those that had received responses, three responses were received more than two years after tabling with the longest gap being 888 days or approximately 29 months. The average time elapsed between report and response was 676 days, approximately 22 months.

³⁴ The Infrastructure and Communications Committee was dissolved on 13 October 2015 and replaced with two new committees: Communications and the Arts; and Infrastructure, Transport and Cities. The reports of the predecessor committee have been analysed as part of the relevant successor committee.

In stark contrast, the NSW Government was preparing responses to committee reports with much greater timeliness. Every one of the LA reports analysed had received a government response, with the longest amount time period elapsing before the presentation of a report being 224 days or approximately 7.5 months. The results of the analysis of timeliness of responses are presented in Table 3 and Figure 2.

Table 4: Key facts for House of Representatives and Legislative Assembly response rates

	Cwth HoR	NSW LA
Proportion of reports receiving a response	59%	100%
Average number of days between report and response	676 (~22 months)	196 (~6.5months)
Longest number of days between report and response	888 (~29 months)	224 (~7.5 months)

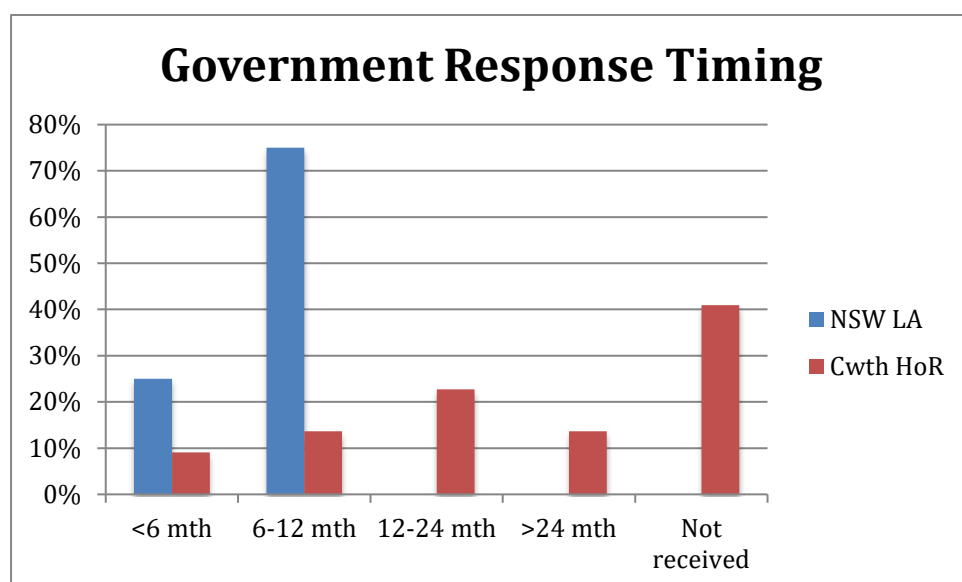


Figure 2: Time elapsed between reports being published and government response. Governments are expected to provide a response within six months.

Acceptance of Committee Recommendations

Government responses to individual recommendations were collated and categorised as: agreed; partially agreed; agreed in principle; noted; or rejected.³⁵ In nearly all cases the government responses explicitly stated one of these categories for each recommendation. A small number of responses used a more ambiguous structure but even in these cases categorising the recommendations was mostly straightforward. Only a very small number recommendations had

³⁵ The NSW Government tends to use the terms 'support' and 'support in principle' while the Australian Government tends to use 'agree' and 'agree in principle', support and agree were considered to be synonymous. A small number of responses stated that particular recommendations would be subject to 'further consideration', these responses were coded as 'noted'.

responses that required judgement calls on categorisation (usually between agreed-in-principle / noted / rejected). The rarity of these cases means that they would not have had a significant impact on the overall numbers. The results of this process are shown in Table 4.

Table 5: Responses to Committee Recommendations

	Total	Agreed	Partially Agreed	Agreed in Principle	Noted	Rejected	No Response
HoR	258	34	5	21.5 ³⁶	52.5	14	131
LA	212	96	16	45	39	16	0

From these results it is clear that the LA committees are having much greater success in having their recommendations agreed to by government than the HoR committees. Interestingly, however, the number of recommendations that were outright rejected was similar. The results are presented below in percentage figures.

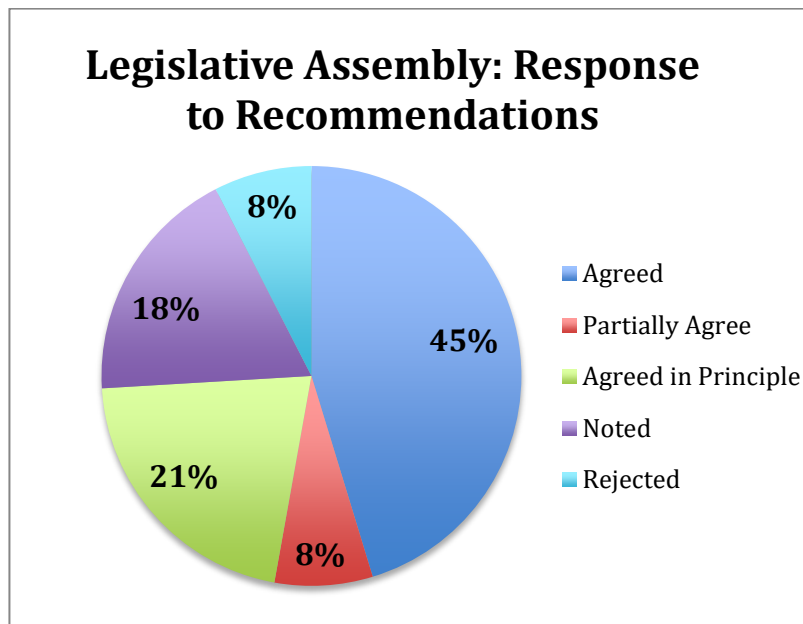


Figure 3: Response of government to Legislative Assembly Committee recommendations

³⁶ Fractional results occurred due to some recommendations containing sub-recommendations that were responded to individually.

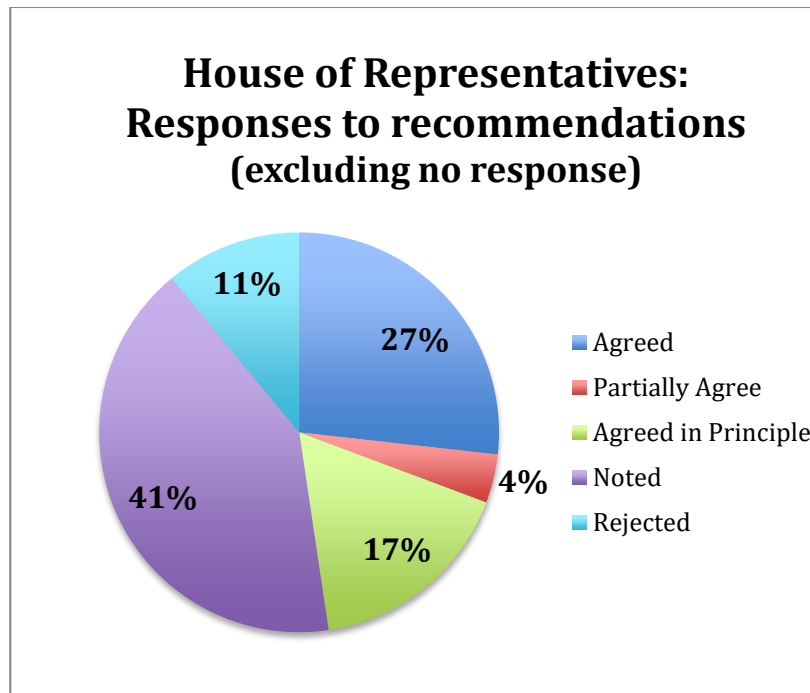


Figure 4: Response of government to House of Representative Committee recommendations

The comparison between the government responses to committee reports from the two chambers is dramatic. 45% of Legislative Assembly Committee recommendations are being accepted by government, with another 8% accepted in part. More than half of all committee recommendations put forward by the LA Committees are being at least partially accepted. This suggests that the LA committees are having a not insignificant influence on the development of policy by the executive. In contrast, of those that receive responses, only 27% of HoR Committee recommendations are accepted by government.

Figures 3 and 4 show that even when they do make a response to committee recommendations the Australian Government is less likely to agree to a recommendation than the NSW Government. In reality though, Figure 4 overemphasises the success of HoR committees in having their recommendations accepted. Figure 5 shows the rates of acceptance of recommendations once reports that have not yet received a government response are included.

More than half the HoR committee policy recommendations from the 44th Parliament are yet to receive a response from the Government. Just 15% of recommendations have received a (fully or partially) positive response from the Government; a stark contrast to the 53% for LA committee recommendations. If the more ambiguous responses (agree-in-principle and noted) are excluded only one in every five HoR committee recommendations has received a definitive answer regarding whether it is accepted or rejected.

House of Representatives: Responses to all recommendations

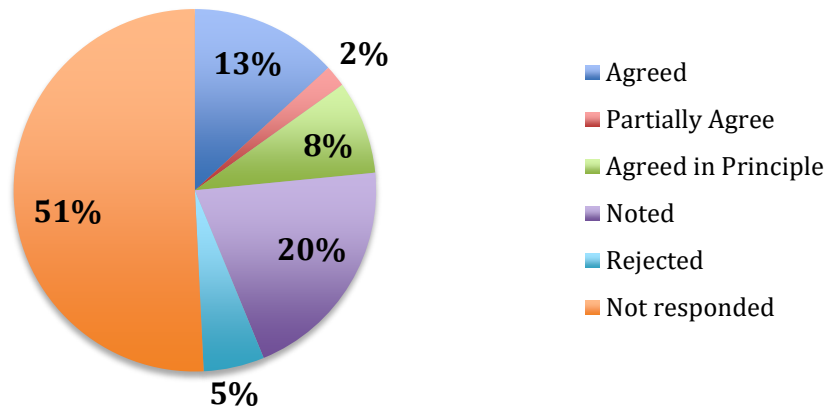


Figure 5: Government responses to House of Representative Committee recommendations including those that have not yet received a government response.

Case Study: Reviewing Troubled Waters

In December 2014 the Australian Parliament's House Standing Committee on Social Policy and Legal Affairs took the unusual step of adopting an inquiry into the Government's response to one of its previous inquiries. The report of the Committee's original inquiry *Troubled Waters: Inquiry into the arrangements surrounding crimes at sea* (the First Report) had been presented to parliament in June 2013 and the Government had provided its response in November 2014.

The *Troubled Waters* inquiry was instigated as 'a consequence of the New South Wales coronial inquest into the death of Ms Diane Brimble aboard a P&O cruise liner in 2002.'³⁷ The coroner's report made recommendations to the Australian Government and these were referred to the Committee by the Attorney-General in 2012. The First Report made 11 recommendations focussed on the need for better collection of statistics, efforts to pursue reforms through international organisations, consumer protection and safety information, crime scene management, and investigation of crimes at sea.³⁸

The Government's response was received 16 months after publication of the First Report and of the 11 recommendations, two were agreed to, four were agreed to in principle only, two were noted, and three were not agreed to.

³⁷ House Standing Committee on Social Policy and Legal Affairs, *Reviewing Troubled Waters: Consideration of the Government Response to the 2012 Inquiry into Arrangement Surrounding Crimes at Sea*, p. 1.

³⁸ House Standing Committee on Social Policy and Legal Affairs, *Reviewing Troubled Waters: Consideration of the Government Response to the 2012 Inquiry into Arrangement Surrounding Crimes at Sea*, pp. 2-12.

The Committee was concerned both by the time taken to make a response and that the Government had not agreed to most of the recommendations and resolved to undertake an inquiry into the Government response.

In its second report *Reviewing Troubled Waters: Consideration of the Government response to the 2012 inquiry into arrangement surrounding crimes at sea* (the Second Report) the Committee stated that it considered the Government's response 'concerning in several respects'. Specifically the Committee was critical of the delays in the Government's response 'despite a House resolution requiring that the Government respond within six months'. In addition, the Committee noted that it had not been provided with any clear explanation of the reason for the delay.³⁹

The Committee also criticised the lack of detail in the Government response and drew attention to the ambiguity of the terms 'noted' and 'agree in principle', stating that where recommendations had been noted or agreed in principle there was no 'indication of whether there is to be further action resulting from them'.⁴⁰

The Second Report's recommendations were largely a reiteration of those recommendations in the First Report that had not been accepted by the Government. One of the First Report's recommendations was that the Government legislate to require cruise ship operators to provide certain information to passengers. The Government responded by suggesting the same result could be achieved through a voluntary agreement with operators and in the Second Report the committee accepted this response but recommended that the Government report to the Committee on the progress of the agreement by the end of 2015.⁴¹

The Committee stated that it hoped that the recommendations of the Second Report would 'receive deeper consideration, and that a response will be provided within the six month timeframe – that is, by the end of 2015.'⁴²

Despite the Committee's specific request for a response within the prescribed six month period the Government's response was again delayed. In this case the

³⁹ House Standing Committee on Social Policy and Legal Affairs, *Reviewing Troubled Waters: Consideration of the Government Response to the 2012 Inquiry into Arrangement Surrounding Crimes at Sea*, p. 12.

⁴⁰ House Standing Committee on Social Policy and Legal Affairs, *Reviewing Troubled Waters: Consideration of the Government Response to the 2012 Inquiry into Arrangement Surrounding Crimes at Sea*, p. 12.

⁴¹ House Standing Committee on Social Policy and Legal Affairs, *Reviewing Troubled Waters: Consideration of the Government Response to the 2012 Inquiry into Arrangement Surrounding Crimes at Sea*, p. 9.

⁴² House Standing Committee on Social Policy and Legal Affairs, *Reviewing Troubled Waters: Consideration of the Government Response to the 2012 Inquiry into Arrangement Surrounding Crimes at Sea*, p. 13.

Government response was received in September 2016,⁴³ approximately 15 months after the Second Report was tabled.

The Government's position on the Committee's recommendations remained unchanged in its response to the Second Report. It did agree in principle to the recommendation relating to the agreement with cruise ship operators but, importantly, did not commit to reporting back to the Committee on the progress of this agreement.⁴⁴

Discussion

The analysis presented above found that HoR committees appear to be having significantly less direct impact on policy development than their LA committee counterparts.

In part this is due to the LA committees appearing to be particularly successful in having recommendations adopted. The proportion of LA committee recommendations fully (45%) or partially (8%) agreed to compares very favourably to both HoR committees (27% fully and 8% partially accepted) and Benton and Russell's analysis of British Select Committees (12% fully, 28% partially). The rates of recommendation adoption between the HoR and House of Commons are of a broadly similar level. Interestingly, the acceptance rate of HoR committee recommendations (27%) exactly matches the rate found by Monk for Australian Parliament committees in the 40th Parliament (2001 to 2004).

From this analysis it is not possible to be sure why LA committees are so successful in having their recommendations accepted. It could be that there is a practice of making relatively unambitious or uncontroversial recommendations that are easy for government to accept. On the other hand, it could indicate that the LA committees are well respected and their work taken seriously by the executive in NSW.

Perhaps the clearest finding, however, is that there is a significant problem in relation to the Australian Government's timeliness in providing responses to committee reports. This was already evident in Monks analysis of the 40th Parliament where he found 32% of reports had not received responses and that some reports had received responses up to five years after they were tabled. This situation has continued to deteriorate since period since Monk's analysis. The analysis of the Speakers Schedule showed that (excluding reports less than six months old) in every year more than half the committee reports were still awaiting a response. In most years the proportion of responses received on time was in the single figures and it never reached above 19%.

⁴³ Standing Committee on Social Policy and Legal Affairs, 44th Parliament Completed Inquiries, https://www.aph.gov.au/Parliamentary_Business/Committees/House/Social_Policy_and_Legal_Affairs/Completed_inquiries/44th_Parliament_completed_inquiries, Accessed 4 January 2018.

⁴⁴ Australian Government, *Government Response to Reviewing Troubled Waters*, p. 2.

Interestingly, Benton and Russell do not mention responses not being provided as a problem for the House of Commons. More strikingly, all the reports analysed from the LA had received a response from the NSW Government within 8 months of the report being tabled.

In addition, given that the NSW Government is responding to committee recommendations, on average, in less than a third of the time it takes the Australian Government it would not have been surprising to see it rely more heavily on the ambiguous responses of 'agreed-in-principle' and 'noted'. But this is not the case; in total 39% of LA recommendations received these responses as opposed to 58% of HoR responses.

The poor performance of the Australian Government in responding to recommendations suggests that committees are struggling to exert influence on the policy development of the executive. Over half of the policy recommendations made by House committees in the 44th Parliament are yet to receive a response. These are committees with a majority membership and chair from the governing parties so it is not as though they are making recommendations that are deliberately antagonistic towards, or unreasonable for, the government. This suggests that the executive simply does not see committees as an important part of the policy process.

In addition, it is clear that the House resolution of September 2010 requiring a government response within six months has not led to a significant improvement in the timeliness of responses. The penalties for not meeting this requirement are not enough to justify the prioritisation of preparing a response within the public service. This is highlighted by the Northern Australia Committee example; even in this good news case of a report with influence the preparation of the formal response took three years.

The inability of HoR committees to force the executive to provide substantive and timely responses is most clearly seen in the *Reviewing Troubled Waters* case. The Government's response to the committee's Second Report was little more than a restating of the response to the First Report and yet it still took 15 months to deliver. This was despite the committee publically criticising the government for the delays in preparing the first response and strongly requesting a timely response to the Second Report. Even in this case where a committee is willing to publically express its frustration with the nature of government responses it has little ability to improve the situation.

Conclusion

This paper looked at the influence of House of Representative committees on executive policy development, primarily by looking at government responses to committee reports. Recommendations of House of Representatives committees were found to be much less likely to be adopted by government than recommendations of NSW Legislative Assembly committees. Additionally, and in strong contrast to the situation in NSW, the Australian Government is not complying with the resolution of the House to provide responses to committee reports within six months. More than half of the policy recommendations from

House committees in the 44th Parliament have not received a response and when responses do arrive they are commonly late.

The differences found between the federal and NSW situations suggests House of Representative committees are not treated by the executive as important players in the policy development process. The case study analysed also suggests that House of Representative committees have little power to improve the quality or timeliness of government responses to recommendations.