

## Section 4

### Parliament's initiative to enhance its oversight responsibility

#### 4.1 The establishment of the Task Team on Oversight & Accountability

At the beginning of 1999, Parliament commissioned research on its oversight function. The research focus was to:

- Identify areas in which Parliament is required to exercise oversight;
- Assess existing Parliamentary mechanisms and procedures to hold the Executive accountable; and
- Make recommendations to improve the efficiency and effectiveness of Parliamentary oversight.

The research report<sup>19</sup> was tabled in July 1999, whereafter the Joint Rules Committee of Parliament established an *Ad Hoc* Joint Subcommittee<sup>20</sup> to consider the report and make recommendations. The Joint Rules Committee then approved a final report during March 2003 and requested the development of an implementation plan.

A Task Team<sup>21</sup> led the implementation process and established three Focus Groups, namely the Budget, Projects and Committees Focus Groups. The overarching objective was to develop a model for Parliament's oversight function that was both in line with the new strategic vision and that would produce the resultant realignment of resources to fulfil Parliament's mandate with greater efficiency and effectiveness. As clearly captured in both Parliament's vision, and the recommendations of the *Ad Hoc* Joint Subcommittee, at the core of such a model, was the desire to establish a "People's Parliament". To this end it is also important to note that in a

resolution taken by the Parliamentary Oversight Authority (POA) they implored the Task Team to, in their designing of the Oversight model, view **Public Participation** as an integral part of Parliament's oversight function.

Conceptually (and also in practice) the abovementioned desire represents a sharp departure from current practices. Before discussing the proposed new Oversight and Accountability model, a brief reflection is given on the implication that the desire for the creation of a People's Parliament has on Oversight.

#### **4.2 A People's Parliament and its implications for oversight**

Firstly, the emphasis is placed on the fact that Parliament is borne out of the will of the people, serving first and foremost the best interests and needs of the people.<sup>22</sup> Rather than merely ensuring compliance of the Executive, the focus is on contributing to the overall quality of governance.

Secondly, given that oversight is exercised in the general pursuit of good governance, this approach creates a direct linkage between oversight and service delivery, which then too suggests that the legislature bears some responsibility to overall government performance.<sup>23</sup> To this end oversight is not viewed merely as a means to keep the Executive in check, but also as a means to facilitate delivery by ensuring that Executive action are in line with laws passed by Parliament (and the Constitution) and that such actions respond to the needs of the people, as articulated through their elected representatives.

Concomitant with these two characteristics of a people-centred Parliament is a third crucial element, namely that Parliament as a vehicle for the expression of the peoples' interests and should remain in touch with the people to accurately articulate their wishes.

A fourth tenant of a people-centred approach to Parliament's oversight function is that oversight should not be seen as merely a reactive action in the sense that it is dependent on assessing government action. Indeed it could be argued that a People's Parliament should be in the position through its oversight capabilities to, independent from Executive action monitor the appropriateness of government delivery to ensure early detection of deficiencies, and identify the developmental needs of the people.<sup>24</sup> This aspect should however not be misconstrued to mean that Parliament exercises its oversight function in isolation of government's political cycle. A pro-active oversight approach would afford Parliament the opportunity to develop an additional mechanism through which it can gauge development, as well as measure the appropriateness of government policies.

In order to give effect to the vision of a People's Parliament, it is imperative that efficient and effective policies, mechanisms and systems be put in place. These systems and policies should empower Parliament, as an institution, with the capacity to track and monitor government performance in predetermined areas of delivery.

The formulation of a vision and the associated strategic redirection of Parliament presuppose a long-term approach to the strategic management of Parliament. In this regard it should be accepted that the migration to a new oversight model is a process that would have to assess the efficacy of current oversight tools. This would be done with a view to improve mechanisms where needed, realign existing tools with new ones, and even more importantly effectively co-ordinating all activities, both old and new.

With this said, a brief descriptive (and illustrative) overview of a proposed new model for Parliamentary oversight is now presented.

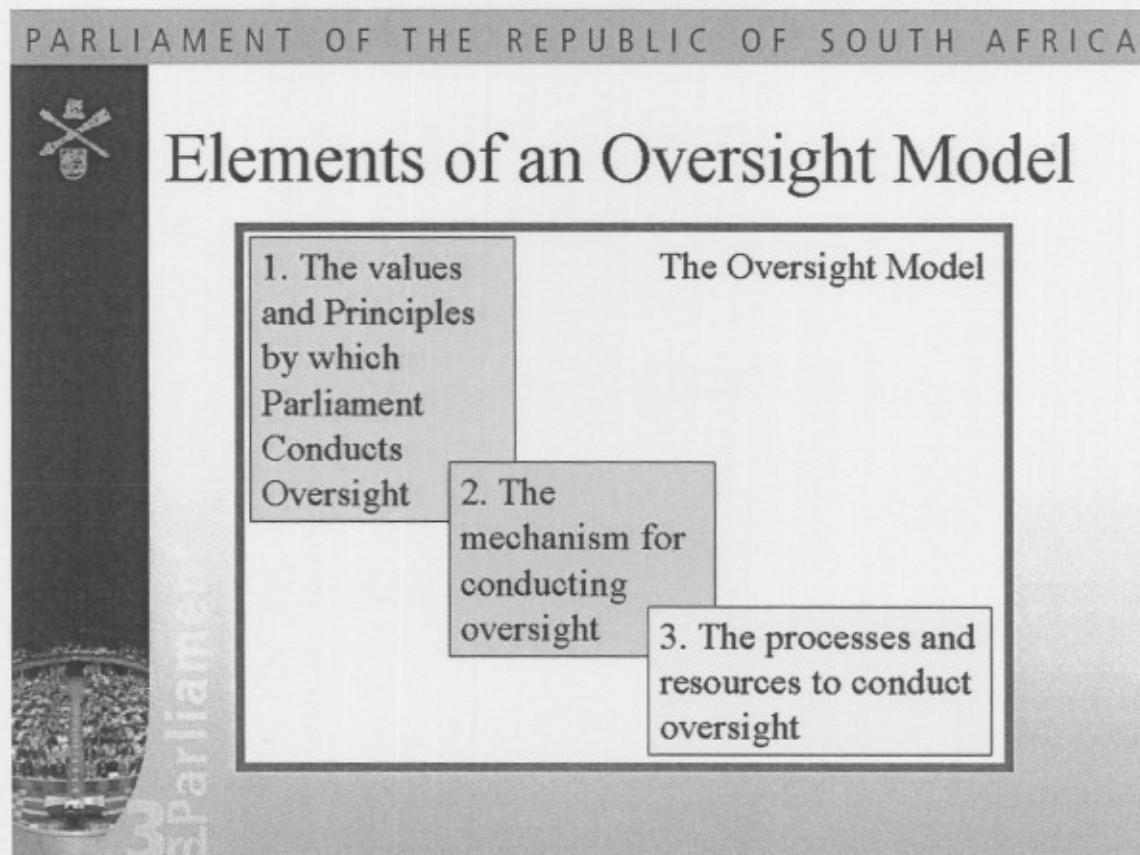
## 4.3 Proposed new model of oversight and accountability

### 4.3.1 Premise

This model's primary objective is to provide a framework that describes how Parliament conducts oversight that improves existing tools of Parliamentary Oversight, streamlines components of the new oversight model with existing components, enhances Parliament's capacity to fulfil its oversight function, and are in line with Parliament's new strategic direction.

An oversight model must thus consist of three elements:

1. The values and principles by which parliament conducts oversight
2. The mechanism or framework to conduct oversight
3. The processes and resources required for conducting oversight



**Figure 3 Elements of the oversight model**

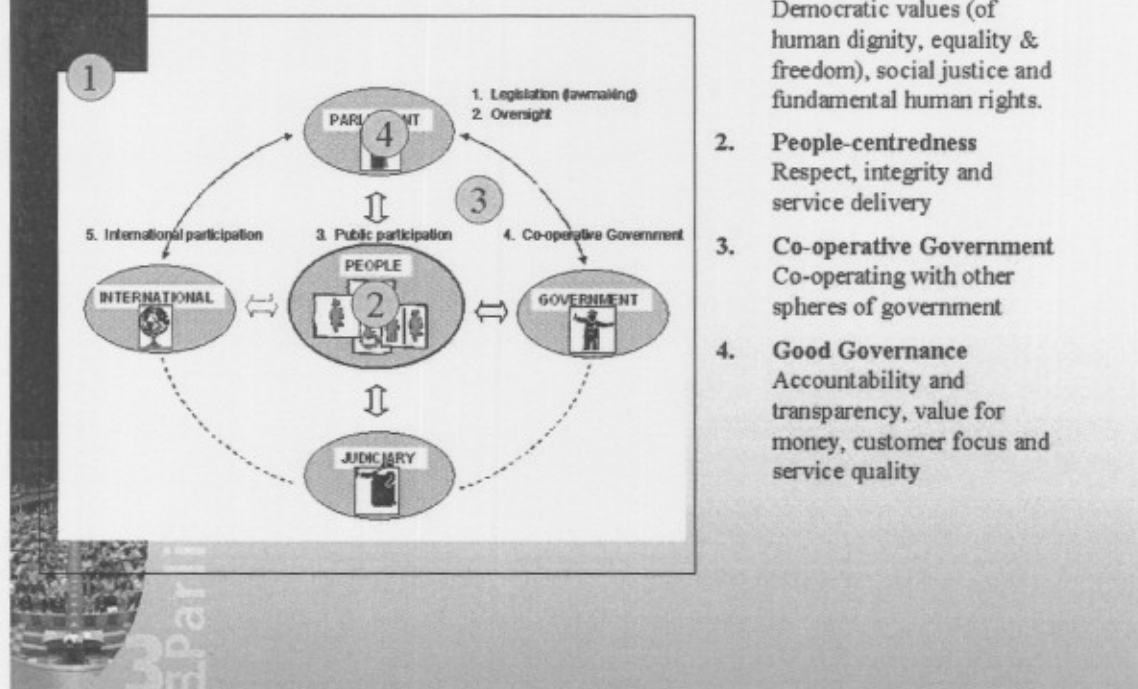


### 4.3.2 Values and Principles

Constitutionally the NA and NCOP have the prerogative to design their own internal arrangements, proceedings and procedures.<sup>25</sup> To this end the Constitution explicitly states that in making rules and orders concerning its business both Houses are compelled to take due regard of **representivity, participatory democracy, accountability, transparency and public involvement.**<sup>26</sup> In addition to these values Section 195 (1) of the Constitution also stipulates the basic values and principles governing administration in every sphere of government.<sup>27</sup> Added to the abovementioned values are also: **a high standard of professional ethics, efficient, economic and effective use of resources, development-oriented, impartiality, fairness, equity, and responsiveness.** These values are captured and summarised in the Parliament Strategy that was adopted by both houses in March 2005, as follows:

1. **Constitutionality:** Democratic values (of human dignity, equality & freedom), social justice and fundamental human rights.
2. **People-centredness:** Respect, integrity and service delivery
3. **Co-operative Government:** Co-operating with other spheres of government.
4. **Good governance:** Accountability and transparency, value for money, customer focus and service quality

## Parliamentary Values



**Figure 4 Parliamentary Values**

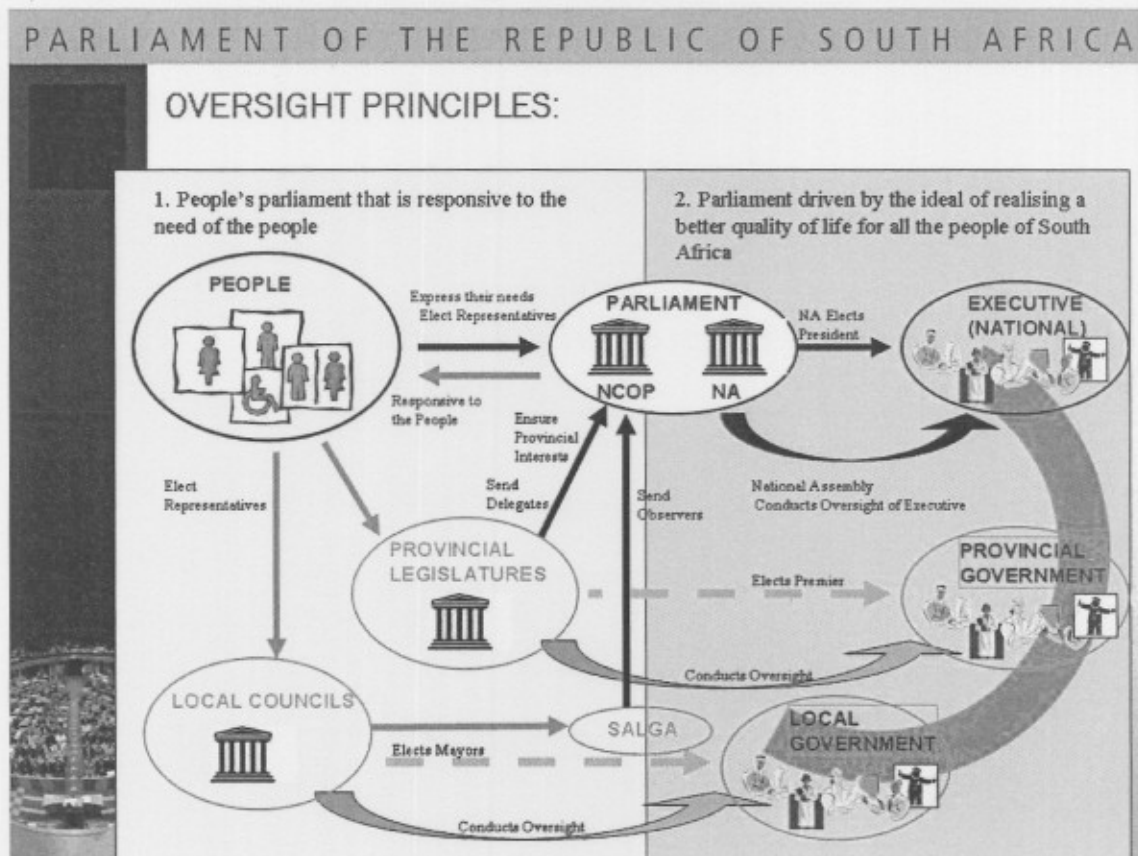
The Parliamentary Oversight process, as described above, relates to interaction with the People and Government. Each of these interactions requires a principle that Parliament should strive to uphold in conducting Oversight.

These principles are:

- To act as a People's Parliament that is responsive to the needs of the people
- To be a Parliament driven by the ideal of realising a better quality of life for all the people of South Africa

Figure 5 illustrates how these principles apply to the process of oversight. These principles are captured in Parliament's vision as follows:

*"To build an effective people's Parliament that is responsive to the needs of the people and is driven by the ideal of realizing a better quality of life for all the people of South Africa."*

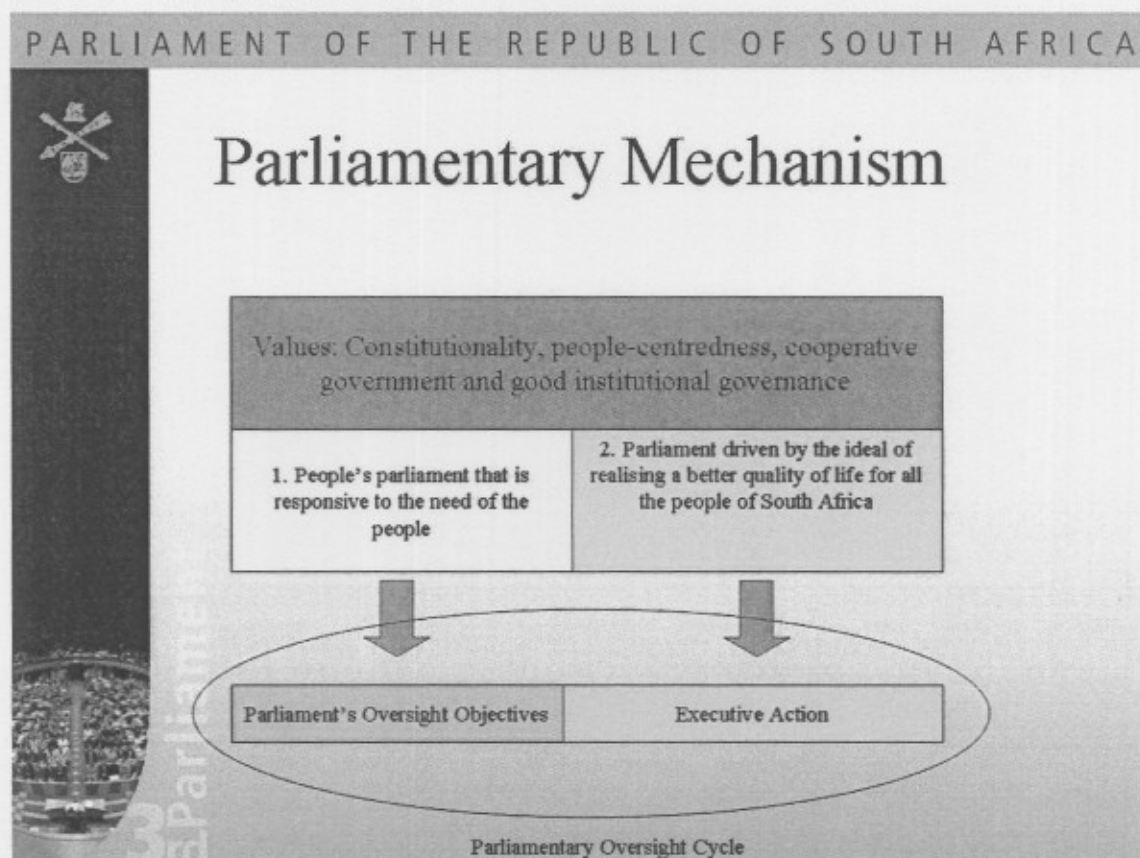


**Figure 5: Parliamentary Oversight Principles**

### 4.3.3 The Mechanism

The oversight work of most Parliamentary committees is currently programmed in response to government's five-year Medium Term Expenditure Framework (MTEF). It is proposed that, in addition to this, the Parliamentary Oversight Cycle should incorporate a mechanism that would monitor government delivery against predetermined delivery priorities that can be monitored concurrent with the MTEF cycle.

Figure 6 illustrates two pillars of Parliament principles of people responsiveness and improving the quality of life for South Africans. It shows that the first principle relates to the need for Parliament to determine its oversight objectives for the five-year duration of the Parliament. The second principle relates to the actual scrutiny and oversight of executive action against the Parliamentary oversight objectives. The Parliamentary Oversight Cycle must encompass Parliament Oversight Objectives and executive actions within the MTEF cycle.



**Figure 6: High level illustration of the Parliamentary Oversight Cycle**

The oversight cycle will require Parliament to take a long-term view of oversight in order to ensure effective oversight of **sustainable delivery** as opposed **immediate delivery**.



An illustration of this concept is that if an oversight objective is housing and the government meets its target this year on a three-year housing programme in accordance with its strategy and business plans that constitutes immediate delivery. However, if the houses built in the first year start to deteriorate due to bad construction quality in the third year this does not constitute sustainable delivery.

Thus figure 7 illustrates the Oversight cycle as part of a long-term process linked to the MTEF.

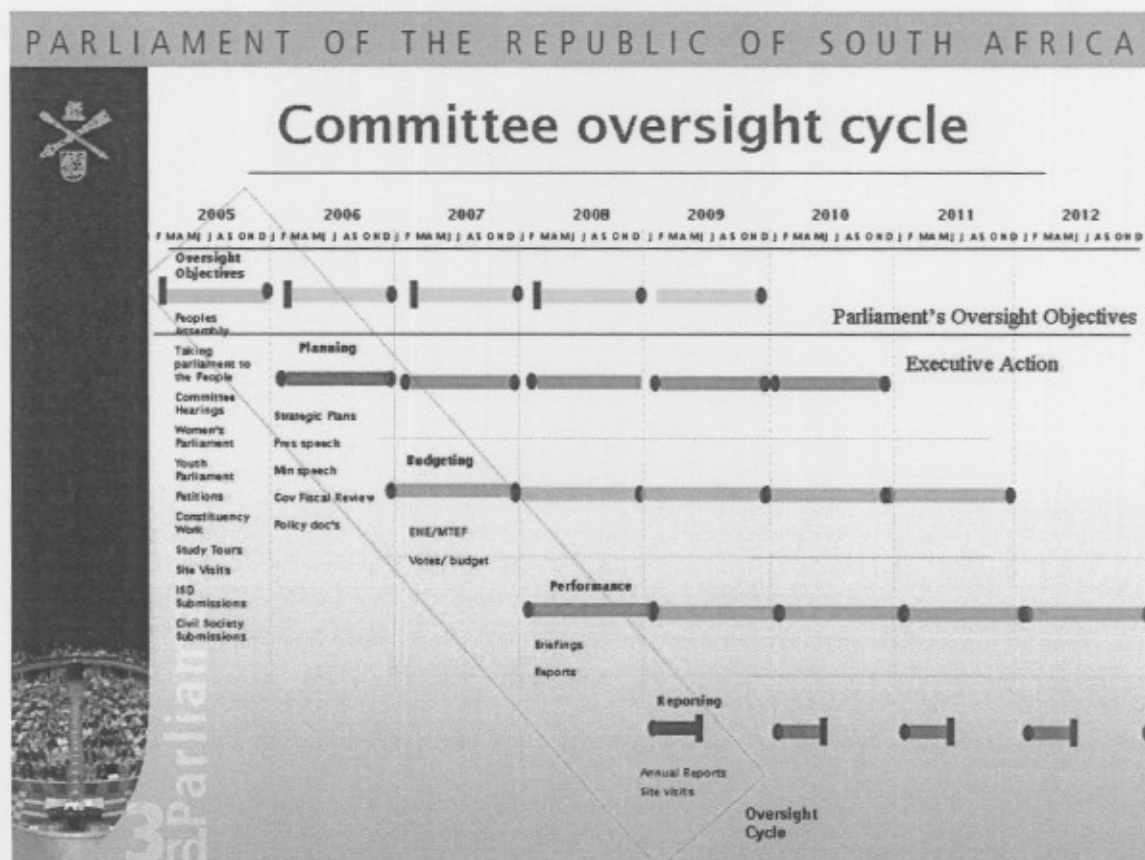


Figure 7: Parliamentary Oversight Cycle

#### **4.3.4 Processes and Roles**

##### **4.3.4.1 Inputs**

The input used to determine delivery/oversight priorities will be gathered through Parliament's public participation campaigns, inputs from Parliamentary Democracy Offices (PDOs), issues highlighted through plenary debates and question time, and committee work such as public hearings, study tours, site visits, analyses of Annual Reports, and Departmental briefings. To ensure optimal involvement from the public, especially less well-resourced civil society organisations and community based organisations, special attention should be given to identify such organisations associated with the theme/priority. A special fund can then be established to afford such organisations the opportunity to make submissions on the themes/priorities. In some instances direct engagement with communities that are specifically affected by the themes/priorities should also take place. Given the co-ordinating role of the Integrated Parliamentary Oversight Committee (IPOC), it will also be an ideal nodal point for receiving and co-ordinating Institutions Supporting Democracy (ISD) reports. In addition it can also be a useful instrument to ensure that the Budget is appropriately referred within Parliament.

##### **4.3.4.2 Committee Level**

Each Committee will be responsible for collecting all the inputs gathered through its activities into a research report that will identify priority oversight areas. A research report will then be presented to the Committee Chairperson proposing the five/six key themes, including key performance indicators (KPIs). The committee will deliberate on the report and agree on a final report to be submitted to the Cluster level.

#### 4.3.4.3 Cluster Level

It is proposed that an **Integrated Parliamentary Oversight Committee (IPOC)** be established, that report to the Presiding Officers (PO's) of Parliament. The IPOC will identify oversight themes highlighted by clusters, and make recommendations to the PO's on overall Parliamentary Oversight themes and priorities. Ideally, these priorities and themes will inform Parliament's oversight agenda for the duration of the Parliamentary term. In addition to reviewing and referring the recommendations from the IPOC to their respective Houses, the PO's will also be entrusted to align these recommendations with the Constitutional mandates of the Houses.

The senior Cluster-level researchers will provide content and analytical support to the IPOC. The objective of this committee will be to provide Parliament with the capacity to track and monitor government performance in predetermined areas/themes of delivery. This information will be published annually in a publication entitled the **Parliamentary Oversight Priorities Report (POPR)**. The PO's through the office of the Leader of Government Business will communicate parliament's Oversight priorities to the Executive.

#### 4.3.4.4 Composition of IPOC

The composition of IPOC will be an important element in the success of the Oversight and Accountability Model. It is proposed that the IPOC will be composed of the House Chairpersons of the two Houses, multi-party representatives in proportion to party representation in Parliament, and Committee Chairpersons designated by their clusters.

#### **4.3.4.5 Parliamentary Oversight Priorities Report (POPR)**

Themes identified within the POPR would preferably focus on issues stretching beyond the ambit of specific committees and that would require more long-term monitoring. This is recommended to prevent the IPOC from duplicating work done by committees. It may also include more global issues such as government's progress on achieving the United Nations' millennium development goals. An example of a theme might be "Government efforts to combat fires in informal settlements". To combat this problem, it is clear that more than one government department and even sphere of government will have to be involved. Information might have to be sourced through the Portfolio Committees on Housing, Social Development and Public Works, as well as Select Committees on Local Government, Land Affairs and Environment, and Social Services. Furthermore information would have to be sourced in Municipalities and/or Provinces in which this problem is specifically rife. Where appropriate, independent research agencies and institutions of higher learning that are working within the field concerned might also be consulted.

In the second phase cluster senior researchers will have to continuously monitor the outcomes of existing oversight tools such as questions, committee reports, study tour reports, and debates to pick up on relevant information to be included in the assessment section of the POPR, for the following years. Whilst the format of oversight themes/priorities addressed in the POPR will differ, it should preferably contain:

- A section evaluating government performance against the previous year's POPR;
- A section explaining why additional themes are considered an oversight priority, given the developmental goals of society;



- An assessment of current government policies and programmes that deal with theme/priority;
- An assessment of, and commentary on, current resources (including financial) allocated by government to address the theme/priority area;
- The findings of the IPOC on its assessment of the theme/priority area, including the input from the public;
- Identified measurable outcomes to monitor government action to address the theme/priority, plotted against a recommended timeline; and
- Recommendations to government in general or specific government departments or agencies on addressing the theme/priority area.

#### **4.4 Presiding Officers and Houses**

On Cluster level, cluster senior researchers will be responsible for collating their relevant committee-level reports and integrate these different reports into a draft report to be presented to the IPOC. The IPOC will then compile the POPR and present these recommended Oversight Priorities to the Presiding Officers. The Presiding Officers would review the report and refer it to the two Houses. After both Houses have adopted the POPR, it will be reproduced and publicly launched by the Presiding Officers (PO's).

To ensure that government, when setting its annual political agenda and budget notes the contents of POPR, it should be launched prior to the commencement of the following year's political cycle. It is important that the Report should be publicly launched and championed by the Presiding Officers of Parliament by communicating its findings to the Executive through the Leader of Government Business.

#### **4.4.1 POPR and the lifecycle of Parliament**

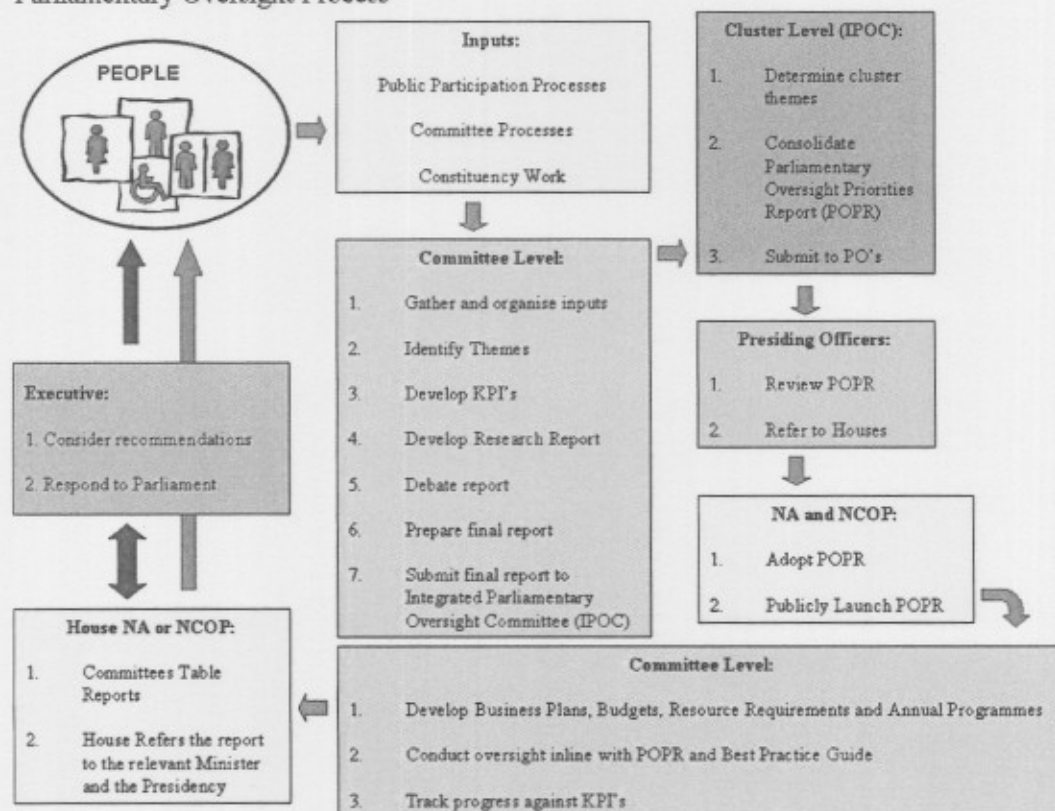
A POPR produced at the start of a Parliamentary term will outline the five-year Oversight Objectives. These will be revised annually to confirm the relevance of the selected objectives (refer to figure 7). Through the life of a Parliament, a major review of oversight objectives will be conducted during the mid term review of that particular Parliament. At the end of the term of a specific Parliament, the POPR will be compiled to reflect the performance of that Parliament during its five-year existence. Unfinished business in terms of Oversight will be highlighted in this report to facilitate the institutional memory and continuity. An incoming Parliament will then be in the position to reflect on the achievements, in terms of oversight, of a previous Parliament, in setting its own oversight objectives.

#### **4.5 Committees Conducting Oversight**

Committees must use the POPR as their basis for determining their annual oversight activities must produce budget plans, budgets, resource requirement and an annual programme of activities. Committees would then exercise oversight in line with the practices described in the Parliamentary Best Practice Guide. The committee research capacity would also be responsible for ensuring that the KPI's identified in the POPR are monitored and tracked.

This cycle of activities would repeat on an annual basis as illustrated in figure 8 below.

## Parliamentary Oversight Process



**Figure 8 Proposed Oversight Process**

### 4.6 Executive Compliance<sup>28</sup>

Whilst it is foreseen that recommendations to the Executive on substantive, transversal issues requiring response will be contained in the POPR, there will continue to be *ad hoc* issues emanating from Committee Reports requiring response from the Executive. In order to ensure response from the Executive in both cases the following procedures are proposed.

#### **4.6.1 On Committee level:**

1. In the process of overseeing the Executive, Parliamentary committees submit reports to their respective House in which they make recommendations requesting a response from the Executive on matters of concern identified in their reports.
2. The respective House considers the report and by resolution adopts the recommendations it contains. The recommendations then have the status of a House decision.
3. The respective Presiding Officer communicates the House decisions in writing to the relevant Minister.
4. When the House adopts a committee report, the respective Presiding Officer's written communication to the relevant Minister should be copied to the Leader of Government Business, the appropriate House Chairperson and to the committee that made the recommendations to the House.
5. The PO's communication should include a reminder to the Minister that a formal response should be directed to the PO.
6. Executive compliance should then be monitored both by the committee as part of its continuous oversight function, and by the Office of the House Chairperson on behalf of the House.
7. Committees should develop a uniform monitoring system, administratively implemented by committee secretaries.
8. In all cases where a response is required from the Executive in respect of a House resolution on a committee report, the House resolution



(with the date of its adoption) should be recorded as an appendix to the Order Paper. The entry should remain on the Order Paper until a formal response has been received.

9. Depending on the number of such House resolutions awaiting a response, the Order Paper appendix could be produced weekly or every 14 days in order to limit costs.
10. If a response is not received within a reasonable period, or within the period specified in a House resolution, the House Chairperson notifies the PO, who then writes to the Minister requesting compliance within 14 days, or a written explanation for any delay.
11. The written explanation is published on the ATC, and a note is added to the Order Paper entry.
12. In the (unlikely) event of sustained non-compliance by a Minister, the Assembly has a variety of remedies available to it. These include a written complaint to the Leader of Government Business
13. In certain exceptional circumstances, a Minister may be called to account in the House, for instance during question time.

#### **4.6.2 On IPOC Level**

In the same manner as Committee Reports become instruments of the respective House that adopted it, the POPR will be considered an instrument of Parliament, once adopted by the Houses. Since the POPR will contain recommendations on substantive, transversal issues, Executive response to recommendations would require a longer term monitoring.

After the Presiding Officers communicated the recommendations captured in the POPR to the Executive through the Office of the Leader of Government Business, the IPOC will in regular intervals during a specific year, and for the duration of the Parliament monitor Executive compliance on such matters.

In lieu of the fact that the POPR will be updated annually, the Presiding Officers should, in a reasonable time prior to the annual update, remind the Leader of Government Business (in writing) to reply to these matters.

In the (unlikely) event of sustained non-compliance by the Executive a written complaint may be sent to the Leader of Government Business. In certain exceptional circumstances, the Leader of Government Business may be called to account to IPOC.