Regulatory Impact Statement 3: Parliament Bill – Operation of the Parliamentary Precinct

Coversheet

Purpose of Document	
Decision sought:	Analysis produced for the purpose of informing final Cabinet decisions
Advising agencies:	Office of the Clerk Parliamentary Service
Proposing Ministers:	Leader of the House
Date finalised:	6 September 2021

Problem Definition

This Regulatory Impact Statement considers one policy area related to the operation of the Parliament precincts. The discrete policy problem is set out below.

Parliamentary security arrangements

Parliamentary security officers (PSOs) have only common law powers or the rights of an "occupier" (on delegation from the Speaker) under the Trespass Act 1980 to carry out their duties. PSOs have no specific statutory powers of search, seizure or detention (or immunities arising from appropriate execution of their duty). PSOs are expected to intervene to protect people and assets within the parliamentary precinct until the police arrive. 6(d) - Endangering the safety of any person [redacted] The number of serious incidents at Parliament has risen and continues to rise.

The external independent review of parliamentary security in 2019 noted that it was surprising that no statutory powers are provided to PSOs, especially compared to the powers available to those protecting courts, prisons, and airports. PSOs themselves have commented that in some situations they do not have the powers and legal protection to operate effectively.

Executive Summary

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Parliamentary security arrangements

This policy is to ensure Parliament's safety and security is adequately protected; this includes the capacity to deal with serious threats to the health and life of members of Parliament, staff, and visitors. A secondary objective is to retain Parliament's current level of openness and accessibility to the public, as far as is practicable in light of the results of a threat assessment at any time.

We considered two main options: (1) maintaining the status quo; (2) providing parliamentary security officers with statutory powers.

We recommend Option 2: providing parliamentary security officers with statutory powers. The proposed powers and duties are based upon those provided to court security staff in the Courts Security Act 1999, with some additional provisions that are necessary in a parliamentary setting. This option would provide a higher measure of accessibility to Parliament than current provisions, and appropriately balances people's rights and interests with Parliament's need to provide a safe and secure environment for members, staff, and visitors.

Our preferred option is based on a recommendation made in an external independent review of parliamentary security, which was supported by parliamentary representatives in the previous (52nd) Parliament. The police support this approach, which complements the current arrangement in which a constabulary policing presence is provided in the parliamentary precinct when necessary. The union representing security staff was consulted on the principles behind the preferred option and are in support.

General

The costs of implementing and operating this policy are negligible and would be paid for from baseline funding.

We consulted with the following:

- government agencies: the Department of Internal Affairs; the Government Communications Security Bureau; the Ministry of Justice; the New Zealand Police; the New Zealand Security Intelligence Service; the Office of the Privacy Commissioner; and the Treasury. The Department of the Prime Minister and Cabinet and the Parliamentary Counsel Office were informed.
- parties in Parliament: the ACT Party; the Green Party; the Labour Party; the National Party; and Te Paati Māori. The Green Party highlighted the need for strong safeguards and accountability mechanisms, as well as providing cultural competency training to PSOs. These points are addressed in the policy and will be included in the implementation plan. The ACT Party considered the policy proposal sensible. None of the parties raised any concerns about the proposal.
- other interested party: Hon Christopher Finlayson (former Attorney-General) supports the policy in relation to parliamentary security.

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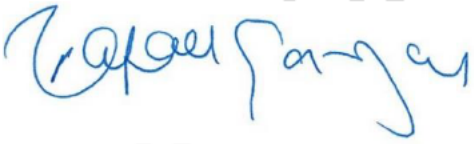
Limitations and Constraints on Analysis
There were no policy limitations on the policy options considered. There were time and consultation constraints over policy development because of the Speaker's preference that the Parliament Bill be introduced into the House in March 2022. This required policy decisions to be made by September 2021, which minimised the time available for policy analysis. This constraint meant that although departmental and party consultation could take place, wider public consultation could not. The select committee process for the Parliament Bill will be an opportunity for public input.

Responsible Manager(s) (completed by relevant manager)	
David Wilson Clerk of the House 30 August 2021	Rafael Gonzalez-Montero Chief Executive Parliamentary Service  30 August 2021

Quality Assurance (completed by QA panel)	
Reviewing Agency:	A special quality assurance panel was convened to consider the Regulatory Impact Statements for the Parliament Bill. It had membership from the Ministry of Justice (Chair), the Department of Internal Affairs, and the Parliamentary Service.
Panel Assessment & Comment:	An independent quality assessment panel has reviewed the Regulatory Impact Statement (RIS) prepared by the Office of the Clerk and Parliamentary Service and considers that the information and analysis summarised in it ***partially meets*** the Quality Assurance criteria. The RIS provides convincing, concise analysis as to why enhanced security arrangements are necessary. However, the panel notes that time constraints have precluded public consultation on this policy. Public viewpoints have not been tested on enhanced security at parliament and how that will affect perceptions of parliament's accessibility. This can be mitigated through consultation, and the panel recommends consideration be given to opportunities for targeted consultation, such as an exposure draft bill.

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PARLIAMENTARY SECURITY ARRANGEMENTS

Section 1: Diagnosing the policy problem

What is the context behind the policy problem and how is the status quo expected to develop?

1. Parliament grounds are open to the public. The public are able to exercise their rights to freedom of assembly, freedom of movement, and freedom of expression in the grounds.

2. There is no right of public access to Parliament buildings. New Zealanders strongly believe that they should have a high level of access to Parliament and its buildings. It is also constitutionally important that the public may visit to appear at a select committee, observe proceedings, or meet with their representative.

Parliamentary Security Officers

3. Parliamentary security officers (PSOs) are the front-line staff who manage security at Parliament. The main areas of law from which PSOs derive their authority are:

    a. The Speaker may delegate to PSOsrights as an "occupier" under the Trespass Act 1980. These PSOs may deliver warnings to people telling them to leave and to stay away from the parliamentary precinct.[1]

    b. Under common law, security screening carried out at Parliament is acceptable because it is a condition of entry made by the lawful occupier of the parliamentary precinct. PSOs do not have general powers of search.

    c. The Crimes Act 1961 sets out what is commonly known as citizens' powers of arrest (sections 35, 36 and 42). These provisions apply to PSOs as they do to all citizens, allowing them to arrest people for limited offences under the Act and to detain people for breaching the peace, and it gives them some immunity.

4. Commonly reported security incidents managed by PSOs include: concerning communications, inappropriate behaviour, insecurity,[2] suspicious items, and unauthorised access. Although incidents at Parliament rarely escalate to violence, the potential exists, especially when the House or the media is dealing with controversial topics. A number of serious incidents on the precinct have raised concerns. For example, on Budget Day 2016, a member of the public drove a ute with a farming fuel tank onto the grounds and attempted to set it on fire. On that occasion, PSOs interrupted the person as he tried to light the fuel and as a result the containers of fuel failed to ignite.

5. The incident raised significant safety and welfare concerns for PSOs, staff, members, and the public. We note that each of the large number of incidents involving

[1] See s 26 of the Parliamentary Service Act 2000.

[2] For example, insecure doors (e.g. people tailgating staff to bypass security screening) and insecure safes.

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inappropriate behaviour and concerning communication that the PSOs consistently must deal with also have the potential to escalate.

6. We consider that equipping PSOs with the appropriate powers and training to respond to serious incidents in the precinct would ensure that offenders can be rapidly detained. This would prevent such incidents from escalating further and ensure the immediate safety of staff, members, and the public.

7. PSOs call the police to manage incidents beyond their power or ability. In 2020, the number of occasions PSOs requested that the police respond to serious incidents doubled.[3] 6(d) - Endangering the safety of any person [redacted].

8. PSOs hold ongoing security training for staff to inform them of their security responsibilities and how to respond to incidents (both minor and major) whilst at Parliament. The training also covers how to de-escalate situations.

Review of parliamentary security

9. In November 2019, an external independent review of New Zealand Parliament Security was completed.[4] The review pointed out that overseas Parliaments face increased risks to physical, information, and personnel security and that New Zealand has also experienced tragedies in public areas, including the Christchurch mosque attacks in March 2019 and the attack at the Ministry of Social Development's Ashburton office in 2014. 6(d) - Endangering the safety of any person [redacted]

10. Security staff in the Parliaments of Australia, the UK, and Canada do not have specific statutory powers or immunities. However, police in those jurisdictions have much greater roles and presences in their Parliaments compared to New Zealand. At the Palace of Westminster, for example, the Metropolitan Police Service are contracted to play a large role in providing parliamentary security. Police officers retain their own powers and immunities when operating within the New Zealand parliamentary precinct (subject to specific agreements relating to the use of those powers in respect of members). New Zealand Police have indicated that, on current resourcing, they are unable to provide a

3 Ten serious incidents were reported in 2019 and 19 serious incidents were reported in 2020. A serious incident requires an immediate police response to site. A serious incident includes abusive, threatening, and intimidating behaviour onsite, physical violence, damage to property, and bomb threat /unattended bag.

4 The review was conducted from July to September 2019. It included:

- interviews and workshops with the Speaker, Members of Parliament, departmental leaders, and staff;
- international comparisons of parliamentary security in Australia, United Kingdom, and Canada;
- observations on security from a number of unaccompanied visits by the reviewer;
- input from the New Zealand Police and the Public Service Association;
- research from New Zealand and overseas;
- threat, vulnerability and criticality assessments; and
- discussions with Office of the Clerk, Department of Internal Affairs, the Department of the Prime Minister and Cabinet on the report.

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level of support to Parliament comparable to that provided in some overseas Parliaments.

11. The public expects an open Parliament, where they may exercise their freedoms of assembly, movement, and expression. A larger police presence may give the appearance of a more guarded Parliament. If the responsibility for Parliament's security were transferred from PSOs to constables, who have more statutory powers, the public may perceive greater barriers to access and a less welcoming and more intimidating environment.

12. The review recommended that the PSO role be provided with legislative powers of detention as soon as practicable. Powers of detention would include the exercise of control and restraint to ensure safety until the police arrive.

What is the policy problem or opportunity?

13. PSOs have no specific statutory powers of search, seizure or detention, nor any form of immunity arising from appropriate execution of their duties. Police are not generally on-site to deal with incidents as they happen; PSOs are expected to intervene to protect people and assets until police arrive.

14. PSOs' ability to protect members, staff, and visitors from serious threats is compromised by their lack of statutory powers and protections, which places those in the parliamentary precinct at risk. The compromised ability to deal with serious incidents risks disrupting the continuity of government. Though parliamentary agencies and members continue to advocate for Parliament's accessibility, and feedback from a public engagement survey in 2020 suggests that this should continue[5], physical accessibility needs to be balanced with security and safety concerns. The New Zealand Parliament provides more physical access to the public than many overseas Parliaments, but its security arrangements are out of step with international parliamentary security.

15. The Parliamentary Security Review identified that security staff regularly have to manage irate, threatening, problematic individuals and/or groups, lack the legislative powers to respond effectively, safely and efficiently, and depend on the police to manage such situations. 6(d) - Endangering the safety of any person [redacted] The review recommended that PSOs be provided with legislative powers of detention as soon as practicable.

16. The Parliamentary Service Chief Executive and Chief Security Officer agree with the review's findings.

[5] The Office of the Clerk engaged Colmar Brunton to undertake a "Survey of the New Zealand Public" in November/December 2020. This was an online survey of 1000 18+ year olds.

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17. Following the review, a Parliamentary Service Commission sub-committee consisting of members of Parliament from all parties was established to consider the recommendations. 6(d) - Endangering the safety of any person [redacted]

18. When consulted on the proposed policy changes, the Green Party commented that they "accept that there may be a need for bespoke statutory powers of temporary search, seizure, and detention. However, it is essential that these have strong grounds for accountability mechanisms. This could include a reasonable grounds test and rights of appeal. Security staff must receive training in their legal obligations and in cultural competency before being mandated to use their powers of search, seizure, or detention."

19. These concerns have been considered both in this Regulatory Impact Statement, and when planning for implementation. Training options are being discussed with court security staff.

What objectives are sought in relation to the policy problem?

20. Our main objective is to ensure that Parliament is adequately protected, its safety and security is maintained, and its staff are able to deal with serious threats to members of Parliament, staff, and visitors.

21. A secondary objective is to protect Parliament's current level of openness and accessibility to the public, as far as is practicable in light of the level of threat as assessed at any given time.

Section 2: Deciding upon an option to address the policy problem

What criteria will be used to compare options to the status quo?

22. The following specific criteria have been developed in order to assess the options:

Criterion	What it means
Participation	• Rules should not create unreasonable barriers for participation in Parliamentary matters • Parliament is open and accessible to members and the public
Safety and Security	• Parliament has the capacity to deal with serious threats to the (physical and mental) health and life of members of Parliament, staff, and visitors • National security and continuity of government is protected

What scope will options be considered within?

23. There have been no limits on the scope of the options considered.

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24. Two further options were given initial consideration but considered to be unviable:

    a. Contracting the police to provide security services to Parliament, which is an approach used overseas. The Commissioner of Police has discretion in line with their operational independence to assign constables to work in the parliamentary precinct. This option was rejected because the Parliamentary Service and the police have considered options for a permanent policing presence at Parliament for some time but have not been able to implement any options due to a lack of police resources. In addition, a larger permanent police presence, as is used in some overseas Parliaments, does not appear warranted in the New Zealand Parliament's circumstances. Of the security incidents reported in Q4 2020/21[6], only 20% were referred to the police, and less than half of those related to physical activities. Therefore, having a larger permanent police presence would not appear to be an appropriate use of limited police resources if PSOs were provided with statutory powers to act as a safeguard and better manage more situations. The police consider that providing PSOs with statutory powers would give the police a number of opportunities to better police the parliamentary precinct.

    b. Contracting a private entity to provide security services to Parliament. Private security personnel are regulated by the Private Security Personnel and Private Investigators Act 2010. This option was rejected because despite meeting comprehensive licensing, certification, and training requirements, private security personnel do not have sufficient powers to meet the policy objective.

25. Parliamentary security arrangements in Australia, the United Kingdom, and Canada were reviewed during policy development.[7] However, we believe the New Zealand public expects Parliament to be highly accessible and would not tolerate the higher security measures used in overseas Parliaments.

What options are being considered?

26. The following options were considered:

    a. Option One – Status quo

    b. Option Two – Statutory powers for parliamentary security officers.

Option One – Status quo

27. Under the status quo, PSOs would continue to rely on the common law and powers provided by the Trespass Act and the Crimes Act, with additional support provided by

[6] In this quarter, there were 275 security incidents reported. Of those, 57 were reported to Police. The main reasons for requiring police assistance were for concerning communications and threats of suicide.

[7] The national parliaments in Australia, Canada and the United Kingdom do not have parliamentary security offices with specific statutory powers or immunities. However, in each of those Parliaments, police have a much greater role and presence in the Parliament than is the case in New Zealand. For example, at the Palace of Westminster, the provision of security has been almost entirely contracted out to the Metropolitan Police Service. Police officers retain their own powers and immunities when operating within Parliament (subject to specific agreements relating to the use of those powers in respect of members).

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the police. 6(d) - Endangering the safety of any person [redacted]

Option Two – Statutory powers for parliamentary security officers (the preferred option)

28. We have considered models of statutory security powers provided under courts, civil aviation, maritime, and private security legislation as well as the general provisions of the search and surveillance legislation.

29. The risk profile of Parliament is similar to that of the courts. Both relate to public constitutional buildings, which the public expect to be able to access. Accordingly, with some amendments, such as for immunities, detailed below, the Courts Security Act 1999 provides a useful basis for specific legislative provisions in respect of PSOs.

30. As noted in Colmar Bruton's 2020 engagement survey commissioned by Parliamentary Service, the public expects to be able to easily engage with Parliament. Physical accessibility of Parliament needs to be balanced with security and safety concerns. There is a risk that the public would feel intimidated knowing that PSOs have statutory powers of search and detention. However, it is unlikely many people know that PSOs do not have these statutory powers.

31. The Speaker has rights to require individuals to leave the grounds if their actions are unlawful, disorderly, unreasonably infringe the rights of another, or create a public nuisance.

32. We have not consulted with the public about the policy proposal because we did not have enough time. Members of the public will be able to have their say during the select committee process, as it is vital to get public feedback on the perception of Parliament's accessibility.

Powers of search, temporary seizure, temporary detention

33. Under this option, it is proposed to provide PSOs with powers to:[8]

    a. Ask for identification (including, if there are reasonable grounds to do so, asking for the person's reason for entering)

    b. Deny entry to or remove an individual who refuses certain security requests (e.g. not complying with (a) above or with (c), (f), or (g) below)

    c. Ask for a person's consent to specified searches. This includes a scanner search of the person or property in their possession/control, search of a person or property in their possession/control by electronic screening device, a limited external examination of the person's clothes (if there are reasonable grounds for asking),

[8] Refer sections 12, 13, 15, 16, 17, 18A, 19, 19A, 20, and 21 of the Courts Security Act 1999.

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and search of any property in the person's possession or control including a motor vehicle (if there are reasonable grounds for asking)

d. Ask to examine detected items

e. Seize detected items (in limited circumstances relating to the actual or likely commission of a specified offence,[9] including those involving violence). The PSO must hand the item to the arresting police officer if the person is arrested or if possession of the item is unlawful

f. Ask to take detected items into temporary custody (where the PSO has reasonable ground to believe the item may threaten parliamentary security), to be reclaimed when leaving

g. Deny entry to, or remove a person from, the parliamentary buildings or precinct if the PSO believes on reasonable grounds that the person is (or will be) harassing or intimidating another person, is causing (or will cause) violence within or damage to the parliamentary precinct or buildings, or is significantly disrupting (or will significantly disrupt) parliamentary proceedings, administration of the parliamentary precinct, or the conduct of lawful activities in Parliament

h. Detain a person for a reasonable period not exceeding two hours and call the police as soon as practicable. The PSO must detain the person in a safe place (noted in Section 3 paragraph 52 (g)) until the arresting officer arrives or until the PSO is satisfied the person is not going to be arrested, and must deliver the person to the arresting police officer or, if no police officer arrests the person, free the person. This power may only be exercised if:

   i. a PSO has reasonable grounds to believe a person may have committed a specified offence (the PSO may alternatively use a power to ask the person for their full name, address, and date of birth if the PSO believes it is appropriate in the circumstances)

   ii. the person has refused to leave the parliamentary buildings or precinct after being required to do so or has attempted re-entry after being removed or denied entry (and following a warning they may be detained, if they have persisted)

i. Seize items and detain persons if a PSO has reasonable grounds to believe that a person has committed or will commit a specified offence

j. Use reasonable force when exercising their powers and duties.

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[9] Under the Court Security Act 1999, "Specified offence" (a) means—(i) an offence under any of— (A) sections 87 (*Riot*), 121 (*Assisting escape from lawful custody*), 167 (*Murder defined*), 168 (*Further definition of murder*), 171 to 177 (*Manslaughter, Punishment of murder, Attempt to murder, Counselling or attempting to procure murder, Conspiracy to murder, Accessory after the fact to murder, Punishment of manslaughter*), 188 to 194, 196 to 199, 202A, 202C, and 306 of the Crimes Act 1961; and (B) sections 3, 9, 11, 11A, 11B, 13, and 13A of the Summary Offences Act 1981; and (C) sections 45 and 46 of the Arms Act 1983; and (D) sections 7 and 13 of the Misuse of Drugs Act 1975; and (ii) any other offence committed within a court that a court security officer believes on reasonable grounds— (A) threatens the safety or security of another person or that person's property; or (B) may cause serious damage to the court; and (b) includes an attempt to commit an offence specified in paragraph (a).

34. PSOs would only be able to use these powers in the parliamentary precinct and would not be able to use them in respect of members of Parliament, staff, or other individuals or groups (such as the media or senior public service officials) exempted by the Speaker. PSOs will not be entitled to exercise any of their powers or duties while a police officer is dealing with the person.

35. PSOs would also have similar duties to court security officers in using their powers, and affected persons would have similar rights.[10] This means PSOs must inform a person that:

    a. a search may not take place without their consent and that the person may withdraw their consent at any time (but that they may be denied entry or removed if they do)

    b. an item may not be taken without their consent (unless it has been seized in the limited circumstances noted above) and that the person may withdraw their consent at any time (but that they may be denied entry or removed if he or she does)

    c. they are entitled to entry (if denied entry or removed from the parliamentary precinct or buildings) if they comply with requests or if the PSO is satisfied the person will not behave in ways described in (h) above.

36. The duties and powers of PSOs will provide protection against all threats to Parliament, including serious threats. The police have identified that this will complement the current police presence.

37. It is proposed that PSOs be required to satisfactorily complete training approved by the Chief Executive of the Parliamentary Service before they may exercise any statutory powers or perform any statutory duties.[11] The Parliamentary Service will also have a separate obligation to ensure that the powers of PSOs are only used by staff who have received appropriate training (this requirement is based on civil aviation legislation). Once trained, PSOs will be required to have and show special identity cards.

Immunity

38. It is proposed that PSOs be provided with protection from civil or criminal liability in relation to carrying out their role. This protection will reflect the drafting of similar protections under other Acts providing search powers.[12] We do not propose that this provision be based on the model for court security officers, as they have the immunities of a constable.[13] The immunities that apply to constables are extensive, are spread across a range of legislation, and are not easily accessible. Although these immunities may be appropriate in a court setting, where Court Security Officers deal with persons

[10] Based on sections 18, 22 and 23 of the Court Security Act 1999.

[11] Based on section 9 of the Court Security Act 1999.

[12] See, for example, section 80I of the Civil Aviation Act 1990, section 177 of the Health and Safety at Work Act 2015.

[13] See section 31 of the Court Security Act 1999.

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charged with offences, that level of immunity does not appear necessary for PSOs. The more common legislative approach to statutory immunity for people who carry out statutory functions is also clearer and simpler to apply. The immunity will establish that nothing done by a PSO under the statute may subject the PSO to personal liability if done in good faith and in the exercise of statutory powers or duties.[14] This immunity would extend to persons assisting them in good faith and in a reasonable way.[15]

39. If PSOs have a clear legal foundation for certain powers and statutory immunity, then this provides a fairer and safer work environment for them.

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[14] Refer Section 80I of the Civil Aviation Act 1990.

[15] Based on section 32 of the Court Security Act 1999.

Offence to obstruct a PSO

40. This model would include a new offence of obstructing a PSO.[16] A person would commit an offence who resists or assaults or wilfully obstructs, or incites or encourages any person to resist, assault or obstruct a PSO exercising any of their powers or duties or a person helping a PSO to do so. The person would be liable to fine not exceeding $1000 or to imprisonment for a term not exceeding three months. This offence would be a category 2 offence in the Criminal Procedure Act 2011. The Ministry of Justice vetted the proposed offence and their comments have been included in this proposal.

Oversight and complaints

41. There needs to be appropriate oversight of the exercise of any powers by PSOs. It will be an operational requirement that any exercise of statutory powers of detention or control and restraint would be logged and the event reviewed by security management. Regular reporting to the Chief Executive of the Parliamentary Service, the Parliamentary Service Commission, and the Security & Health & Safety Sub-committee would also include reporting on any relevant events and trends.

42. Individuals or groups affected by a PSO's exercise of power or duty, or an attending police officer, would be entitled to file a complaint to the Speaker in respect of behaviour by a PSO on the grounds that their actions were unlawful, or their behaviour amounted to misconduct or gross negligence.[17] The Speaker is the most appropriate review mechanism as the Speaker is the legal "occupier" of the parliamentary precinct and is independent of the Parliamentary Service. There is a risk that the Speaker may not be considered sufficiently independent due to their role as the responsible Minister for the Parliamentary Service, as a beneficiary of security services, and as a person who is often consulted on about security matters. This risk is likely to be of perception only, because the role of the Speaker is constitutionally independent. To mitigate the risk to the Speaker (and as noted in para 31), the Parliamentary Service Commission, which has cross-party membership and is chaired by the Speaker unless there are matters where there may be a conflict of interest, would receive reports on such events and act as a 'check' on reviews of any complaints against a PSO or attending police officer.

43. The Chief Executive of the Parliamentary Service would be empowered to revoke the authority of the PSO to exercise powers and duties, on a temporary or permanent basis, in cases where there were concerns regarding their use of PSO powers.

Commentary

44. This option enhances the ability of Parliament to respond to serious threats. It also provides a clear legal foundation and statutory immunity for PSOs, which provides a fairer work environment. The public's perception of the accessibility of Parliament may be adversely affected, but this would be mitigated by the training the PSOs in de-escalation, privacy, and cultural competency, and by maintaining the tradition of public

[16] Based on section 30 of the Court Security Act 1999.

[17] This is partially based on 73(4)(d) of the Private Security Personnel and Private Investigators Act 2010.

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being able to access Parliament. The police support this option, which complements the current arrangement in which the police are present in the parliamentary precinct when necessary. The union representing security staff was consulted on the principles of the preferred option and are in support. Due to time constraints, the public have not been consulted, but will have the opportunity through the select committee process for the Parliament Bill, as it is vital to get public feedback on the perception of Parliament's accessibility.

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How do the options compare to the status quo?

Key for qualitative judgements:

++	much better than doing nothing/the status quo/counterfactual
+	better than doing nothing/the status quo/counterfactual
0	about the same as doing nothing/the status quo/counterfactual
-	worse than doing nothing/the status quo/counterfactual
- -	much worse than doing nothing/the status quo/counterfactual

	Option One – Status Quo	Option Two – Statutory powers for parliamentary security officers
Participation	0 Current arrangements are highly accessible.	0 May have some effect on the perceived accessibility of Parliament. The statutory powers would only be used when appropriate. Training on use of powers and de-escalation will provide mitigation.
Safety and Security	0 Current arrangements provide adequate protection for day-to-day issues. 6(d) - Endangering the safety of any person [redacted]	++ Provides optimum protection for all threats against Parliament, including serious threats. Provides clear legal foundation and statutory immunity for PSOs, and a fairer work environment
Overall assessment	0 Remains inadequate	++ Much better than doing nothing/the status quo.

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Other considerations

Consistency with the Legislation Guidelines

45. We consider the preferred option is consistent with the Guidelines.

46. Consideration was given to the most appropriate model for the powers and duties of PSOs. The model used for court security officers seems most relevant and appropriate because it relates to both the safe and secure operation of one of the branches of government and to the rules applying to persons choosing to enter the premises of a branch of government. The model also balances an important set of values, as noted by the Guidelines: "*On one hand is respect for liberty, dignity, bodily integrity, privacy, and the right to peaceful enjoyment by people of their property… On the other hand, and balanced against that right are regulatory and law enforcement objectives underlying particular powers.*" The preferred option achieves this balance and is the best option for meeting the policy objectives. The powers and duties will be clearly described in statute and the conditions and limits on their exercise. Ongoing training and supervision will mitigate possible misuse of powers. The continued enjoyment by the public of the parliamentary precinct, which is a core policy objective, will also provide a natural limit on the exercise of powers except in cases where PSOs consider it warranted.

47. The proposed new offence is also considered to meet the requirements of the Legislation Guidelines.

Consistency with human rights standards

48. Section 21 of the New Zealand Bill of Rights Act 1990 affirms that everyone has the right to be secure against unreasonable search or seizure, whether of their person, property, or correspondence, or otherwise. Under the preferred option, PSOs will be able to exercise certain search powers that only police may currently exercise in the precinct. However, for the reasons noted in this paper, the extension of search powers to PSOs is considered to be demonstrably justified in a free and democratic society and not, therefore, unreasonable so as to engage the right affirmed by section 21.

49. PSOs would be expected to continue to exercise their new powers and perform their new duties consistently with the New Zealand Bill of Rights Act 1990: freedom of expression (section 14); freedom of peaceful assembly (section 16); the right to be secure against unreasonable search and seizure, whether of the person, property, or correspondence or otherwise (section 21); and the right not to be arbitrarily arrested or detained (section 22). The guidance provided by the High Court in relation to control of the parliamentary precinct will continue to inform PSOs' exercise of powers. For example, powers must be exercised reasonably in the circumstances, and in particular so that the rights and freedoms affirmed by the Bill of Rights Act are limited only to the extent reasonably necessary.[18]

[18] Refer Police v Beggs [l9991 3 NZLR 615 (HC). This case related to access to the parliamentary grounds for the purposes of protest, and the exercise of the Speaker's powers under the Trespass Act 1990. The Court found that relevant considerations to determine "reasonableness" included: whether the assembly was unreasonably prolonged; the rights and freedoms of other people using the parliamentary grounds; the rights of an occupier and those whose business took them to Parliament; the size of the assembly and its duration; the content of what was being expressed (e.g. racial abuse, obscenity); and the

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What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

50. **Option Two** (**Statutory powers for parliamentary security officers**) is the preferred option. It maintains public accessibility to Parliament and offers an appropriate balance between:

    a. people's rights and interests (in particular the right to enter into and participate in parliamentary proceedings, prohibitions against unreasonable search and seizure and arbitrary detention); and

    b. Parliament's need to provide a safe and secure environment for members, staff, and visitors and for the continuity of government.

51. This option is based on a recommendation made in an external independent review of parliamentary security, which was supported by parliamentary representatives in the previous (52nd) Parliament. The Police support this approach, which complements the current policing presence in the parliamentary precinct when necessary. The union representing security staff has been consulted and agree in principle with the preferred option.

What are the marginal costs and benefits of the option?

Affected groups (*identify*)	**Comment** nature of cost or benefit (*e.g. ongoing, one-off*), *evidence and assumption (e.g. compliance rates)*, **risks.**	**Impact** *$m present value where appropriate, for monetised impacts; high, medium or low for non-monetised impacts.*	**Evidence Certainty** *High, medium, or low, and explain reasoning in comment column.*
Additional costs of the preferred option compared to taking no action			
Regulated groups	*Parliamentary Service (one-off, implementation)* Development of new administrative processes, guidance for PSOs, communications material, and special identity cards (negligible using existing	Negligible (absorbed within baseline)	High

concept of public order. The Court also found that the Speaker, in exercising the occupier's power to act under the Trespass Act, as a minimum must: act in good faith; exercise such power for the purpose of which it is conferred, and not for any ulterior purpose; exercise such power reasonably in all the circumstances, when balanced against the rights and freedoms of those affected by its exercise; exercise the power with due regard to the wishes of others present on Parliament grounds, including any wish to remain, and to the rights of others wishing to use or enter Parliament grounds; and consider the rights of the Speaker and the Crown effectively to operate, manage, and control its property.

	resources). PSO training will leverage off existing training used for court security officers. *Parliamentary Service (ongoing)* Training costs (no change).		
Regulators	Nil	Nil	High
Others (e.g. wider govt, consumers, etc.)	*Individuals affected by PSO use of power (ongoing)* Small additional impact on rights possible (limited and mitigated)	Low	High
Total monetised costs	*Parliamentary Service (one-off, implementation)* Development of new administrative processes, guidance for PSOs, communications material, and special identity cards (negligible). PSO training will leverage off existing training used for court security officers. *Parliamentary Service (ongoing)* Training costs (no change).	Negligible (absorbed within baseline)	High
Non-monetised costs	*Individuals affected by PSO use of power (ongoing)* Small increase in risk of infringement on rights possible (limited and mitigated)	Low	High
Additional benefits of the preferred option compared to taking no action			
Regulated groups	Nil	Nil	High
Regulators	Nil	Nil	High
Others (e.g. wider govt, consumers, etc.)	*Members of Parliament, staff, and visitors to the Parliamentary precinct (ongoing)* Increased safety and security	Medium	High

Total monetised benefits	Nil	Nil	High
Non-monetised benefits	*Members of Parliament, staff, and visitors to the Parliamentary precinct (ongoing)* Increased safety and security	Medium	High

Section 3: Delivering an option

How will the new arrangements be implemented?

52. De-escalation would remain the preferred tactic for security management in the parliamentary precinct in relation to higher-level incidents, and training on the subject would continue. However, under the preferred option, if PSOs are required to exercise increased powers and responsibilities, they may be exposed to wider physical and legal risks. A new security structure with updated job requirements has been recently implemented at Parliament. PSOs have been appointed who have an understanding of the potential risks of the role and the capacity and capability to undertake it safely. Unions representing those staff will also be engaged during the development of the Bill.

53. Additional matters to be implemented before commencement include:

    a. PSOs will be **fully trained** in their duties prior to new arrangements coming into force. Updated training will cover matters such as applicable law, the use of warnings and other techniques to defuse a situation, training on the use of reasonable force, cultural competency, and requirements about the collection, use and disclosure of personal information. Existing training capability will be used at no additional cost.

    b. **Special identity cards** for PSOs entitled to exercise the relevant powers and duties.

    c. Systems in place to ensure any exercise of statutory powers of detention, control and restraint is **logged and the events reviewed** by security management.

    d. Regular **reporting mechanisms** (to the Chief Executive of the Parliamentary Service, the Parliamentary Service Commission and the Security & Health & Safety Sub-committee) updated to ensure appropriate event and trend reporting.

    e. The **security handbooks** will be updated and provided to staff.

    f. An updated **procedure for the escalation of complaints** about the treatment of individuals by PSOs will be created.

    g. Identification of an **adequate safe place** to temporarily detain individuals if that power is exercised. The Ministry of Justice and the courts will be consulted to ensure the adequacy of the safe place. We are working with the ministry on other aspects of this proposal, such as restraint training and techniques.

    h. Conduct a **Privacy Impact Assessment** and implement any of its findings.

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i. **Members and staff** in the parliamentary precinct will be **directly informed** of the new arrangements. Information on the powers of security officers (& the rights of the public) will be made **publicly available** on the parliamentary website and through collateral such as posters in public areas.

54. The preferred option will have negligible impact on the criminal justice sector because Police are already called in situations warranting a higher level of intervention. This would continue to be the case.

How will the new arrangements be monitored, evaluated, and reviewed?

55. Refer *Regulatory Impact Statement 1: Parliament Bill – Overall Bill* for description of how the policy proposals under the Bill will be evaluated. As noted above, incident review and oversight mechanisms have also been built into the preferred option.

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