

INQUIRY INTO POSSIBLE STRUCTURES OF THE COMMITTEE
SYSTEM FOR THE 10TH LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY

STANDING COMMITTEE ON ADMINISTRATION AND PROCEDURE

2020

REPORT NUMBER 17

THE COMMITTEE

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RESOLUTION OF APPOINTMENT

The Standing Committee on Administration and Procedure Committee is established pursuant to Standing Order 16:

16. (a) A Standing Committee on Administration and Procedure is established at the commencement of each Assembly to:
 - (i) undertake self-referred inquiries or inquiries referred by the Assembly and, in addition, in the third year of an Assembly term the committee shall inquire into and report on the operation of the standing orders and continuing resolutions of the Assembly with a view to ensuring that the practices and procedures of the Assembly remain relevant and reflect best practice;
 - (ii) advise the Speaker on:
 - (A) Members' entitlements including facilities and services;
 - (B) the operation of the transcription service (Hansard);
 - (C) the availability to the public of Assembly documents;
 - (D) the operation of the Assembly library;
 - (iii) arrange the order of private Members' business, Assembly business and Crossbench Executive Members' business;
- (b) the Committee shall consist of:
 - (i) the Speaker;
 - (ii) the Government whip;
 - (iii) the Opposition whip; and
 - (iv) a representative of the crossbench (or if a single party, the whip of that party);
- (ba) Should a whip be unable to attend a meeting, the Party nominated deputy whip may attend in their place;
- (c) the Speaker shall be the Chair of the Committee; and
- (d) the Committee shall have the power to consider and make use of the evidence and records of the Standing Committee on Administration and Procedure appointed during the previous Assemblies.

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RECOMMENDATIONS

Recommendation 1

7.5 The Committee recommends that the motion at Attachment A (which incorporates all of the recommendations in this report) be adopted by the 10th Assembly.

Recommendation 2

8.8 The Committee recommends that the resolution appointing committees include a provision requiring that, upon introduction to the Assembly, all bills be referred to the relevant committee for inquiry and report. Should a committee decide not to conduct an inquiry it shall make a statement, under standing order 246A, informing the Assembly of that decision in a timely manner. Should the committee decide to inquire into a bill, the minimum time for the committee to report would be two months, and the maximum six months.

Recommendation 3

8.9 The Committee recommends that if recommendation No 2 is agreed to, each committee that has bills referred to it should be allocated a research officer to assist with the examination of proposed legislation.

Recommendation 4

11.13 In considering the structure and form of the Assembly committee system for the 10th Assembly, the Committee recommends that the Assembly have regard to the following:

- MLAs do not serve on more than two committees;
- no more than eight standing committees are established (including the Standing Committee on Administration and Procedure);
- there is a presumption of referring matters to standing committees, rather than establishing select committees; and
- as a general rule, only one select committee operates at any one time.

Recommendation 5

12.8 The Committee recommends that the 2020-2021 Budget be referred to standing committees as a trial, and that, at the completion of that process, the Standing Committee on Administration and Procedure undertake a review to ascertain whether or not it offers up benefits over the existing process.

Recommendation 6

13.17 The Committee recommends that the resolution establishing the Standing Committee of Public Accounts circumscribe its core role in inquiring and reporting on reports of the Auditor-General.

In the event that budget estimates are to be referred to standing committees, the Committee recommends that the Standing Committee on Public Accounts would, as part of the estimates process, examine the overall budget position of the Territory.

Recommendation 7

13.19 The Committee recommends that the Standing Committee of Public Accounts of the 10th Assembly consider options, in consultation with the Auditor-General, to facilitate a more systematic approach to highlighting outstanding Audit recommendations.

Recommendation 8

14.5 The Committee recommends that subcommittees are not pursued as part of the practices of the Assembly committee system.

Recommendation 9

15.7 The Committee therefore recommends that the ACT Executive arrange for:

- (1) relevant ICT Security staff from Shared Services ICT to be briefed by relevant technical and committee support staff of the Office of the Legislative Assembly on how the Office configures and hosts its committee public hearings via the *Zoom* platform; and**
- (2) based on the results of that briefing, the ACT Government report to the Speaker on what, if any, particular aspect(s) of those arrangements pose ICT security risks .**

1 BACKGROUND AND CONDUCT OF INQUIRY

- 1.1 Paragraph 2A of Continuing Resolution 8A (adopted December 2008, amended February 2012), which endorses the Commonwealth (Latimer) House Principles on the Three Branches of Government, states:
- (2A) In the second year after a general election, following consultation with the Standing Committee on Administration and Procedure, the Speaker shall appoint a suitably qualified person to conduct an assessment of the implementation of the Latimer House Principles in the governance of the ACT with the resultant report:
- (a) to be tabled in the Legislative Assembly by the Speaker; and
- (b) to be referred to the Standing Committee on Administration and Procedure for inquiry and report.
- 1.2 The first review for the 7th Assembly was conducted by Professor John Halligan from the University of Canberra in 2011, the second review for the 8th Assembly was conducted by the ANZSOG Institute for Governance and Policy Analysis. The Review for the 9th Assembly was again conducted by Professor Halligan. All review documents can be found on the Assembly's website (<https://www.parliament.act.gov.au/f/tru/resource-center/Publications>).
- 1.3 The final report entitled *Review of the Performance of the Three Branches of Government in the Australian Capital Territory against Latimer House Principles* was received by the Speaker on 9 September 2019, provided to the Standing Committee on Administration and Procedure on 12 September 2019 and tabled in the Legislative Assembly on 17 September 2019.
- 1.4 The Standing Committee on Administration and Procedure, pursuant to (2A) (b), conducted an inquiry into the review and tabled its report in the Assembly on 20 February 2020.
- 1.5 In its report on the review, the committee recommended that:
- ... following the election of the 10th Assembly in October 2020, the Government/Assembly consider the comments and suggestions of the *Review of the Performance of the Three Branches of Government in the Australian Capital Territory against Latimer House Principles* in its development of a new committee structure.
- 1.6 At the meeting of the Assembly on 2 April 2020, the Speaker on behalf of the Committee made the following statement pursuant to standing order 246A:
- In its report on the Review of the Performance of the Three Branches of Government in the Australian Capital Territory against the Latimer House Principles, the Committee recommended that, following the election of the 10th Assembly in October 2020, the

Government/Assembly consider the comments and suggestions of the Review of the Performance of the Three Branches of Government in the Australian Capital Territory against Latimer House Principles in its development of a new committee structure.

At its meeting on Thursday 19 March 2020 the Committee resolved to undertake a review of the current committee structure, taking into account the comments and observations of the review of the implementation of the Latimer House Principles in the ACT for the 9th Assembly.

- 1.7 This report provides information on the current structure, discusses the commentary in the Review, analyses committee structures in other jurisdictions and outlines options for the consideration of the 10th Assembly.
- 1.8 The Committee wrote to the Chief Minister, Leader of the Opposition, the Leader of the ACT Greens, and all current Assembly Committee Chairs seeking comment on the matters raised by the Latimer House review and the Committee's report on that review.
- 1.9 In his submission to the inquiry, the Chief Minister suggested that the Committee consider deferring and review of the committee structure until the 10th Assembly. The Standing Committee on Health, Ageing and Community Services also suggested that the current Assembly should be mindful with regard to binding a future Assembly.
- 1.10 The reality is that committees are usually formed on the 2nd day of sittings of a new Assembly following an election, making an in-depth review of arrangements for Assembly committees impractical. The Committee's aim is not to bind the 10th Assembly (and indeed, it is beyond the power of this committee or the current Assembly to bind a future Assembly) but rather to provide guidance to newly elected Members of the 10th Assembly so that the Assembly can make informed decisions about the shape of its committee system.
- 1.11 The Committee also sought submissions from the Auditor-General, the Electoral Commissioner, the Integrity Commissioner and the Clerk wrote to the secretaries of the Assembly's current standing committees.
- 1.12 Submissions were received from:

Mr Andrew Barr, MLA, Chief Minister;

Mrs Vicki Dunne, MLA, Chair, Standing Committee on Public Accounts;

Mr Jeremy Hanson, MLA, Chair, Standing Committee on Economic Development and Tourism;

Ms Tara Cheyne, MLA, Chair, Standing Committee on Environment and Transport and City Services;

Mr Michael Pettersson, MLA, Chair, Standing Committee on Education, Employment and Youth Affairs;

Ms Bec Cody, MLA, Chair, Standing Committee on Health, Ageing and Community Services; and

Ms Elizabeth Lee, MLA, Chair, Standing Committee on the Integrity Commission.

Michael Harris, Auditor General for the Australian Capital Territory

- 1.13 The Committee met on 5 occasions to discuss the future structure of committees in the Assembly.

2 LATIMER HOUSE REVIEW

- 2.1 The *Review of the Performance of the Three Branches of Government in the Australian Capital Territory against Latimer House Principles* (the review) made a number of observations, comments, suggestions and recommendations about the operation of committees in the Assembly and their interaction with the executive and other bodies. The reviewers reflected on the complexity of ministerial and directorate interactions with committees.
- 2.2 The following recommendations of the review are relevant to the consideration of possible changes to the committee structure.

Review Recommendation 1: The Executive should seek a better balance between principles of portfolio allocation so that there is greater alignment of ministers and directorates and more stability in the arrangements in the interests of clarity for accountability purposes.

Review Recommendation 3: The Legislative Assembly should review the committee system and committees' roles to determine whether:

- the language used should be sharpened by referring to scrutiny of the executive and investigation of public policy matters
- greater use should be made of standing committees for the examination of bills
- standing committees should more explicitly reflect directorates, and be clearly subject matter committees
- some subjects incorporated in committee titles be dropped where they are not given obvious attention in committee
- some select committee activity might be incorporated in standing committees including estimates

Review Recommendation 4: That the Legislative Assembly should review the purpose and operation of the Public Accounts Committee with reference to how they operate in comparable jurisdictions, and whether the resources available should be increased.

- 2.3 The Committee's report on the Latimer House review is available at:
https://www.parliament.act.gov.au/_data/assets/pdf_file/0007/1482532/10A_-_Latimer-House-review-Report-9th-Assembly-FINAL.pdf.

3 HISTORY OF COMMITTEES IN THE ACT

COMMITTEES IN THE FIRST ASSEMBLY

- 3.1 General purpose standing committees were established at the commencement of the First Assembly in an *ad hoc* way. Non-government members complained of a lack of consultation, arguing that there was no consensus on the number of committees and the areas of responsibility that committee ought to cover. There were also concerns about the implications for members in meeting the workload demands of an extensive committee system.
- 3.2 Three general purpose standing committees were established on 23 May 1989¹ (the second sitting day), each of four members. Their resolutions of appointment were drafted to reflect the practices of the Commonwealth and state parliamentary practices at the time.
- 3.3 On 25 May 1989, an additional standing committee—the Standing Committee on Conservation, Heritage and the Environment—was established. The motion to establish the additional committee proposed that it have only three members. The mover indicated that this reflected a concern about the demands that the committee system would make on Members’ time. The motion was amended to give the committee four members. The Chief Minister opposed the establishment of the committee because of the implications for both Members’ time and the resources available to the Assembly and indicated that the governing party ‘favoured a rather more streamlined approach to committees’.²
- 3.4 In August 1989, the ACT Chief Minister wrote to the Speaker of the Assembly noting that:
- Members of the Assembly have expressed concerns regarding various aspects of the Assembly committee system ... these concerns appear to have their foundation in the fact that no overall examination of Assembly committees has been attempted.³
- 3.5 The Chief Minister sought the Speaker’s comments on a discussion paper ‘The Role of Assembly Committees’,⁴ which was also provided to party leaders in the Assembly. The paper did little more than propose a fifth standing committee on legal affairs which was to incorporate a scrutiny of bills and delegated legislation function to ‘fill the gap’ in the existing

¹ Standing Committee on Public Accounts, Standing Committee on Planning, Development and Infrastructure and Standing Committee on Social Policy.

² Assembly Debates (25.5.1989), p 167.

³ Standing Committee on Administration and Procedures, *Restructuring the committee system*, dated March 1990, p14.

⁴ Standing Committee on Administration and Procedures, *Restructuring the committee system*, dated March 1990, p.15-7.

areas of responsibility of standing committees. The paper also proposed that a select committee be established each year to examine the appropriation bills, and acknowledged that select committees might also be created to look at specific bills or other clearly limited subject matter not already covered by the ambit of the Assembly's standing committees. There was no discussion about the impacts that an expanded committee system might have on the Members' workloads or the operational and resource capacity of the then Legislative Assembly Secretariat.

- 3.6 The Speaker's response to the report reflected on these issues.⁵ It recognised the constraints placed on the Assembly by the small number of Members available to serve on committees and, without making any substantive proposals, foreshadowed the need for 'careful assessment' of staffing and resource issues. The Speaker proposed the establishment of five general purpose standing committees having responsibility for broad subject areas.⁶ Under the Speaker's model, the standing committees would also have individual responsibility for the estimates function (scrutinising appropriation bills), for considering legislation, and would be expected to develop a broad expertise in the policy areas for which they were responsible. The use of select committees was to be kept to an absolute minimum. The Speaker also proposed that flexible rules relating to the membership of standing committees be adopted to enable additional members to participate in particular inquiries of particular interest.
- 3.7 In response to pressure from Members, a Standing Committee for the Scrutiny of Bills and Subordinate Legislation was established on 18 October 1989 with three members.⁷ The Chief Minister noted in debate that this was to be an interim measure 'pending Government consideration of suggestions for a broad reorganisation of standing committees'.⁸
- 3.8 The Australian Labor Party, by then in opposition, responded to the Speaker's paper on 8 February 1990, broadly supporting the proposed structure. Mr Kaine, the new Chief Minister, provided a government response on 1 March 1990. The government proposed four general purpose standing committees. It also proposed that a single Select Committee on Estimates consider appropriation bills, mainly because the responsibilities of the standing committees did not correspond to the distribution of ministerial portfolios, which would result in Ministers and their officials having to appear before a number of committees.

⁵ Standing Committee on Administration and Procedures, *Restructuring the committee system*, dated March 1990, p.18-9.

⁶ Education and Community Affairs; Legal Affairs (including the scrutiny of bills and delegated legislation function); Public Accounts; Planning, Environment and Infrastructure; and Social Policy.

⁷ The Scrutiny of Bills and Delegated Legislation Committee is not considered to be one of the general purpose standing committees. It has a very specific remit and its secretariat support is provided by the Chamber Support Office of the Assembly.

⁸ Chief Minister, Assembly Debates (19.10.1989) 1863.

- 3.9 On 12 March 1990, the various proposals were referred to the Standing Committee on Administration and Procedures for examination and report to the Assembly. That committee reported on 22 March 1990 and recommended that the existing general-purpose standing committees be retained with minor adjustments to their areas of responsibility. In making this recommendation, the committee rejected the broad consensus held between by the Speaker, the government and the opposition that the Standing Committee on Conservation, Heritage and Environment should be subsumed into a modified planning and environment committee. The proposals to create an education committee, separate from the social policy committee, or to reduce the number of standing committees by one, as suggested by the government, were also rejected.
- 3.10 The administration and procedure committee also recommended that the Assembly establish a legal affairs committee separate from the scrutiny of bills and delegated legislation committee. This was done by resolution of the Assembly on 27 March 1990. It was argued that the latter committee, which was largely concerned with technical legal issues, benefited from a tradition of bipartisanship which might be compromised if it was combined with a committee which might ‘travel down more controversial paths’ associated with substantive policy issues.⁹
- 3.11 Three characteristics of the Assembly’s committee system were apparent and of concern to Members:
- the limited number of Members available to serve on standing and select committees¹⁰ imposed a heavy burden on those Members, particularly from the governing party;
 - with a small number of standing committees, the areas of responsibility of those committees were very wide, challenging their ability to bring effective oversight to bear in particular areas ; and
 - the lack of correspondence between the committees’ remit and the portfolio responsibilities of Ministers limited the effectiveness with which the executive could be scrutinised.

COMMITTEES OF LATER ASSEMBLIES

- 3.12 At the commencement of the 2nd Assembly (March 1992 to February 1995), the five general purpose standing committees from the previous Assembly were re-established and an additional Standing Committee on Tourism and ACT Promotion was created. A further standing committee, the Standing Committee on the Public Sector, was created in June 1994 to

⁹ Standing Committee on Administration and Procedures, *Restructuring the committee system*, dated March 1990, p. 9.

¹⁰ There were 11 select committees in the First Assembly, seven in the Second, eight in the Third, 11 in the Fourth, 10 in the Fifth, six in the Sixth, 10 in the Seventh and seven in the Eighth.

continue the work of a select committee. With that exception, all the general-purpose standing committees were established on the first sitting day of the new Assembly.

- 3.13 In the 3rd Assembly (March 1995 to February 1998), six general purpose standing committees were established on the first sitting day. The Standing Committee on Conservation, Heritage and the Environment, the Standing Committee on Tourism and ACT Promotion and the Standing Committee on the Public Sector were not re-established. The Assembly set up a new committee, the Standing Committee on Economic Development and Tourism, which took on some of the functions of the discontinued committees, with other functions being allocated to other standing committees.
- 3.14 The first significant attempt since 1990 to restructure the committee system was made early in the Fourth Assembly (March 1998 to October 2001). The *Review of the Governance of the Australian Capital Territory* (the Pettit Review) examined *inter alia* the structure of the committee system. It concluded that:
- ... [a] weakness in the current committee system is that the spread of Committees does not match the spread of policy areas covered by Government Departments ...
- and recommended:
- The Standing Committees of the Assembly should be restructured so that there is a committee to track each of the main agencies – and in particular, each of the main policy areas – of government.¹¹
- 3.15 At the commencement of the 4th Assembly the motion to establish the standing committees proposed, citing Pettit, that the committees ‘track’, or align with ministerial portfolios. In practice, given the small number of Ministers and their diverse responsibilities in the ACT system, this proposal replaced one broadly based approach with another. It had become apparent that establishing a committee structure in alignment with ministerial portfolios did not produce a stable or coherent structure due to regular changes in both within and between Assemblies. Five general purpose standing committees were therefore established with the public accounts function subsumed into a new Standing Committee for the Chief Minister’s Portfolio (renamed Standing Committee on Finance and Public Administration on 25 November 1999) and the functions of the scrutiny of bills and subordinate legislation committee being taken into the Standing Committee on Justice and Community Safety.
- 3.16 The Standing Committee on Public Accounts was restored in the 5th Assembly and has been formed in every subsequent assembly. While the names of committees have changed over time the areas of responsibility have differed less. Responsibilities for Health and Community

¹¹ Review of the Governance of the Australian Capital Territory (Canberra, 1998), pp. 48-50.

Services have sometimes been divided between two separate committees¹² and sometimes placed under a single committee.¹³ While environmental matters have usually been considered by the same committee responsible for planning, they were considered by a separate committee in the Seventh and Ninth Assemblies.

- 3.17 It might be argued that the Assembly's early history, which was characterised by minority governments and by a diverse range of Members, including many independents, minor parties and Members who were opposed to the ACT's system of self-government, meant that there was a lack of broad consensus on the structure and responsibilities of the Assembly's committee system. As a result, decisions on the structure of the committee system and other institutional questions were heavily influenced by the small number of Members available to serve on committees and the political exigencies of the moment rather than by a clear appreciation of the institution's long-term needs.
- 3.18 Committee responsibilities may be established with a general and quite broad remit—for example, social policy—and also be established in such a way as to include the performance of specific tasks in addition to general areas of responsibility. k. For example, each Assembly has had a standing committee with responsibility in the areas of planning, which has also discharged the specific legislative requirement that variations to the ACT's land use plan be referred to an appropriate committee of the Legislative Assembly.¹⁴ Later Assemblies combined the specific responsibility for commenting on the reports of the Auditor-General with the general oversight of matters relating to finance and public administration. The 9th Assembly introduced a new oversight committee: the Standing Committee on the Integrity Commission.

¹² As in the Fifth Assembly.

¹³ From the Sixth Assembly onwards.

¹⁴ Section 73(2) of the Planning and Development Act 2007:

The Minister must, within 5 working days after the day the public availability notice for the draft plan variation is notified, refer the draft plan variation documents to an appropriate committee of the Legislative Assembly, together with a request that the committee decide whether it will prepare a report on the draft plan variation.

TABLE 3.1: Legislative Assembly for the Australian Capital Territory Committee Structure, up to and including the 9th Assembly (as at 30 June 2020)

Assembly	Standing Committees	Select Committees
1st Assembly	Administration and Procedures Conservation, Heritage and the Environment Legal Affairs Planning Development and Infrastructure Public Accounts Scrutiny of Bills and Subordinate Legislation Social Policy	Cultural Activities and Facilities Establishment of a Casino Estimates 1989-90 Estimates 1990-91 Estimates 1991-92 HIV, Illegal Drugs and Prostitution Hospital Bed Numbers Occupational Health and Safety Bill 1989 Police Offences (Amendment) Bill 1989 Self-Government Tenancy of Commercial Premises Amalgamation of Territory Institutions
2nd Assembly	Administration and Procedures Conservation, Heritage and Environment Legal Affairs Planning Development and Infrastructure Public Accounts Public Sector Scrutiny of Bills and Subordinate Legislation Social Policy Tourism and ACT Promotion	Budget Performance and Outcomes for 1993-94 Community Initiated Referendums Drugs Establishment of an ACT Public Service Estimates 1992-93 Estimates 1993-94 Estimates 1994-95 Euthanasia
3rd Assembly	Administration and Procedure Economic Development and Tourism Legal Affairs Planning and Environment Public Accounts Scrutiny of Bills and Subordinate Legislation Social Policy	Additional Estimates 1995-96 Competition Policy Reform Estimates 1995-96 and Budget Review Estimates 1996-97 Estimates 1997-98 Establishment of a New Private Hospital Petrol Pricing Workers' Compensation Provisions
4th Assembly	Administration and Procedure Education, Community Services and Recreation Finance and Public Administration (incorporating the Public Accounts Committee) Health and Community Care Justice and Community Safety (also performing the duties of a scrutiny of bills and subordinate legislation committee) Planning and Urban Services	2001-2002 Budget Estimates 1998-99 Estimates 1999-2000 Estimates 2000-2001 Estimates 2001-2002 Gambling Government Contracting and Procurement Processes Public Housing Report of the Review of Governance Territory's Superannuation Commitments Workers' Compensation System

5th Assembly	Administration and Procedure	Estimates 2001-2002
	Community Services and Social Equity	Estimates 2002-2003
	Education	Estimates 2003-2004
	Health	Estimates 2003-2004 (No 2)
	Legal Affairs (also performing the duties of a scrutiny of bills and subordinate legislation committee)	Estimates 2003-2004 (No 3)
	Planning and Environment	Estimates 2004-2005
	Public Accounts	Privileges 2002
		Privileges 2003
	Privileges 2004	
	The Status of Women in the ACT	
6th Assembly	Administration and Procedure	Estimates 2005-2006
	Education, Training and Young People	Estimates 2006-2007
	Health and Disability	Estimates 2007-2008
	Legal Affairs (also performing the duties of a scrutiny of bills and subordinate legislation committee)	Estimates 2008-2009
	Planning and Environment	Privileges
	Public Accounts	Working Families in the Australian Capital Territory
7th Assembly	Administration and Procedure	ACT Supermarket Competition Policy
	Climate Change, Environment and Water	Campaign Advertising
	Education, Training and Youth Affairs	Election Commitments Costing Bill 2011
	Health, Community and Social Services	Exposure Draft
	Justice and Community Safety (also performing the duties of a scrutiny of bills and subordinate legislation committee)	Estimates 2009-2010
		Estimates 2010-2011
		Estimates 2011-2012
		Estimates 2012-2013
	Planning, Public Works and Territory and Municipal Services	Privileges 2009
	Public Accounts	Privileges 2010
	Privileges 2011	
8th Assembly	Administration and Procedure	Amendments to the <i>Electoral Act 1992</i>
	Education, Training and Youth Affairs	Estimates 2013-2014
	Health, Ageing, Community and Social Services	Estimates 2014-2015
		Estimates 2015-2016
	Justice and Community Safety (also performing the duties of a scrutiny of bills and subordinate legislation committee)	Estimates 2016-2017
	Planning, Environment and Territory and Municipal Services	Legislative Assembly (Parliamentary Budget Officer) Bill 2016
	Public Accounts	Regional Development
9th Assembly	Administration and Procedure	2016 ACT Election and Electoral Act
	Economic Development and Tourism	COVID-19 pandemic response
	Education, Employment and Youth Affairs	End of Life Choices in the ACT
		Estimates 2017-2018
	Environment and Transport and City Services	Estimates 2018-2019
		Estimates 2019-2020
	Health, Ageing and Community Services Integrity Commission	Estimates 2020-2021
	Fuel Pricing	

Justice and Community Safety (also performing the duties of a scrutiny of bills and subordinate legislation committee)	Independent Integrity Commission
Planning and Urban Renewal	Independent Integrity Commission 2018
Public Accounts	Privileges 2018
	Privileges 2019

4 COMMITTEES IN THE 9TH ASSEMBLY

- 4.1 There are currently eight general purpose Assembly standing committees in addition to the Standing Committee on Administration and Procedure. The Standing Committee on Justice and Community Safety performs two roles—it serves as a general-purpose committee examining matters related to justice and community safety and also undertakes the scrutiny of legislation function.
- 4.2 The portfolio areas to be considered by each committee were determined by the Assembly in the first full sitting week of the new Assembly (December 2016)¹⁵. An amendment to the resolution was made on 26 October 2017¹⁶ clarifying the roles of the public accounts and economic development and tourism committees.

TERMS OF REFERENCE

- 4.3 Below are the terms of reference for each committee. The terms of reference for the Standing Committee on Administration and Procedure are determined by standing order 16 which outlines the role of the committee and the membership.
- (1) The following general purpose standing committees be established and each committee inquire into and report on matters referred to it by the Assembly or matters that are considered by the committee to be of concern to the community:
 - (a) a Standing Committee on Education, Employment and Youth Affairs to examine matters related to early childhood education and care, primary, secondary, post secondary and tertiary education, non-government education; industrial relations and work safety; and youth services;
 - (b) a Standing Committee on Health, Ageing and Community Services to examine matters related to hospitals, community and public health, mental health, health promotion and disease prevention, disability matters, drug and substance misuse, targeted health programs and community services, including services for older persons and women, families, housing, poverty, and multicultural and indigenous affairs;
 - (c) a Standing Committee on Environment and Transport and City Services to examine matters related to city and transport services, public infrastructure, heritage, and sport and recreation and matters related to all aspects of climate change policy and programs, water and energy policy and programs, provision of water and energy services, conservation, environment and ecological sustainability;

¹⁵ MoP 2016-17/ pp 13-16

¹⁶ MoP 2016-17/ p 439

- (d) a Standing Committee on Justice and Community Safety to perform a legislative scrutiny role and examine matters related to community and individual rights, consumer rights, courts, police and emergency services, corrections including a prison, administrative law, civil liberties and human rights, censorship, company law, law and order, criminal law, consumer affairs and regulatory services;
 - (e) a Standing Committee on Public Accounts to:
 - (i) examine:
 - (A) the accounts of the receipts and expenditure of the Australian Capital Territory and its authorities;
 - (AA) matters relating to market and regulatory reform (excluding Access Canberra), public sector management, taxation and revenue; and
 - (B) all reports of the Auditor-General which have been presented to the Assembly;
 - (ii) report to the Assembly any items or matters in those accounts, statements and reports, or any circumstances connected with them, to which the Committee is of the opinion that the attention of the Assembly should be directed; and
 - (iii) inquire into any question in connection with the public accounts which is referred to it by the Assembly and to report to the Assembly on that question;
 - (f) a Standing Committee on Planning and Urban Renewal to examine matters relating to planning, land management, the planning process, amendments to the Territory Plan, consultation requirements, design and sustainability outcomes including energy performance and policy matters to support a range of housing options; and
 - (g) a Standing Committee on Economic Development and Tourism to examine matters relating to economic and business development, small business, tourism, Access Canberra, procurement, regional development, international trade, skills development and employment creation, and technology, arts and culture.
- (2) The Standing Committee on Justice and Community Safety when performing its legislative scrutiny role shall:
- (a) consider whether any instrument of a legislative nature made under an Act which is subject to disallowance and/or disapproval by the Assembly (including a regulation, rule or by-law):
 - (i) is in accord with the general objects of the Act under which it is made;
 - (ii) unduly trespasses on rights previously established by law;
 - (iii) makes rights, liberties and/or obligations unduly dependent upon non-reviewable decisions; or
 - (iv) contains matter which in the opinion of the Committee should properly be dealt with in an Act of the Legislative Assembly;

- (b) consider whether any explanatory statement or explanatory memorandum associated with legislation and any regulatory impact statement meets the technical or stylistic standards expected by the Committee;
- (c) consider whether the clauses of bills (and amendments proposed by the Government to its own bills) introduced into the Assembly:
 - (i) unduly trespass on personal rights and liberties;
 - (ii) make rights, liberties and/or obligations unduly dependent upon insufficiently defined administrative powers;
 - (iii) make rights, liberties and/or obligations unduly dependent upon non-reviewable decisions;
 - (iv) inappropriately delegate legislative powers; or
 - (v) insufficiently subject the exercise of legislative power to parliamentary scrutiny;
- (d) report to the Legislative Assembly about human rights issues raised by bills presented to the Assembly pursuant to section 38 of the *Human Rights Act 2004*; and
- (e) report to the Assembly on these or any related matter and if the Assembly is not sitting when the Committee is ready to report on bills and subordinate legislation, the Committee may send its report to the Speaker, or, in the absence of the Speaker, to the Deputy Speaker, who is authorised to give directions for its printing, publication and circulation.

MEMBERSHIP AND ALLOCATION OF CHAIRS

4.4 The resolution of appointment for the general-purpose standing committees also specifies the membership of each committee and determines to which party in the Assembly the chairs should be allocated. Originally, each committee had four members.

4.5 The resolution was amended on 20 September 2018¹⁷ to reduce the numbers of members on each committee to three (except for public accounts which retained four members). The impetus for the amendment was a number of problems that had been identified with four member committees, including that majority reports were becoming increasingly elusive and there had been a reduction in the number of available government non-executive members for serve on committees and the workload was untenable.

4.6 The current standing committee memberships are:

Standing Committee on Economic Development and Tourism

Chair:	Opposition
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¹⁷ MoP 2018/ p 1028

Members: 2 Government 1 Opposition

Standing Committee on Education, Employment and Youth Affairs:

Chair: Government

Members: 1 Government 2 Opposition

Standing Committee on Environment and Transport and City Services:

Chair: Government

Members: 1 Government 2 Opposition

Standing Committee on Health, Ageing and Community Services:

Chair: Government

Members: 1 Government 1 Opposition 1 Crossbench

Standing Committee on Justice and Community Safety:

Chair: Opposition

Members: 2 Government 1 Opposition

Standing Committee on Planning and Urban Renewal

Chair: Crossbench

Members: 1 Government 1 Opposition 1 Crossbench

Standing Committee on Public Accounts

Chair: Opposition

Members: 2 Government 2 Opposition

Standing Committee on Integrity Commission

Chair: Opposition

Members: 1 Government 1 Opposition 1 Crossbench

4.7 Of the 25 positions available across the committee system, 11 (44%) are held by government non-executive Members, 11 (44%) by opposition members and 3 (12%) by the crossbench. There are currently 4 non-executive government Members available to service the 11 positions on committees (2.75 committees per Member); 11 opposition members to serve in 11 positions (1 committees per member) and 1 crossbench member for 3 committees (3 committees per member).

4.8 This analysis excludes the Standing Committee on Administration and Procedure whose membership consists of the Speaker and the whips of the three parties in the Ninth Assembly.

4.9 In addition, in the 9th Assembly has established 12 select committees:

2016 ACT Election and Electoral Act (dissolved)

Chair:	Government		
Members:	2 Government	2 Opposition	1 Crossbench
 COVID-19 pandemic response (current)			
Chair:	Opposition		
Members:	2 Government	2 Opposition	1 Crossbench
 End of Life Choices in the ACT (dissolved)			
Chair:	Crossbench		
Members:	2 Government	2 Opposition	1 Crossbench
 Estimates 2017-2018 (dissolved)			
Chair:	Opposition		
Members:	2 Government	2 Opposition	1 Crossbench
 Estimates 2018-2019 (dissolved)			
Chair:	Opposition		
Members:	2 Government	2 Opposition	1 Crossbench
 Estimates 2019-2020 (dissolved)			
Chair:	Opposition		
Members:	2 Government	2 Opposition	1 Crossbench
 Estimates 2020-2021 (disbanded)			
Chair:	Opposition		
Members:	2 Government	2 Opposition	1 Crossbench
 Fuel Pricing (dissolved)			
Chair:	Government		
Members:	1 Government	2 Opposition	
 Independent Integrity Commission (dissolved)			
Chair:	Crossbench		
Members:	2 Government	2 Opposition	1 Crossbench
 Independent Integrity Commission 2018 (dissolved)			
Chair:	Crossbench		
Members:	2 Government	2 Opposition	1 Crossbench
 Privileges 2018 (dissolved)			
Chair:	Crossbench		

Members: 1 Government 1 Opposition 1 Crossbench

Privileges 2019 (dissolved)

Chair: Government
Members: 1 Government 1 Opposition 1 Crossbench

- 4.1 Of the 54 positions available, 21 (39%) are held by the government non-executive Members, 22 (41%) by opposition members and 11 (20%) by the Crossbench. Again, there are currently 4 non-executive government Members available to service the 21 positions on the select committees (5.25 committees per Member); 11 opposition members to serve in 22 positions (2 committees per member) and 2 crossbench members (including the crossbench executive member) for 11 committees (5.5 committees per member). Note that these values are skewed as not all select committees are active at the same time. It is included to indicate the demands made on Members in fulfilling committee responsibilities.

MINISTERIAL PORTFOLIOS AND COMMITTEES

- 4.2 In its consideration of the ACT Government's annual and financial reports for 2018-19, the Assembly agreed to a complicated schedule of appearances of ministers before the relevant committees. The administrative arrangements, showing the large number of portfolios allocated to ACT Government ministers is available via the ACT Legislation Register. This table reflects what would have been the arrangements for the 2020-2021 budget estimates process.

Minister	Reporting areas	Committee appearances
Mr Barr	23	Economic Development and Tourism—8 Planning and Urban Renewal—1 Public Accounts—14
Ms Berry	16	Education, Employment and Youth Affairs—7 Environment and Transport and City Services—2 Health, Ageing and Community Services—5 Planning and Urban Renewal—2
Mr Gentleman	13	Environment and Transport and City Services—6 Justice and Community Safety—2 Planning and Urban Renewal—5
Ms Stephen-Smith	16	Health, Ageing and Community Services—16
Mr Ramsay	18	Economic Development and Tourism—5 Health, Ageing and Community Services—1 Justice and Community Safety—11 Planning and Urban Renewal—1

Mr Steel	15	Education, Employment and Youth Affairs—4 Environment and Transport and City Services—10 Health, Ageing and Community Services—1
Mr Rattenbury	13	Environment and Transport and City Services—4 Health, Ageing and Community Services—4 Justice and Community Safety—5
Ms Orr	18	Economic Development and Tourism—4 Education, Employment and Youth Affairs—4 Health, Ageing and Community Services—6 Planning and Urban Renewal—1 Public Accounts—3

Committee	Ministers appearing	Portfolios considered
Economic Development and Tourism	3	17
Education, Employment and Youth Affairs	3	15
Environment and Transport and City Services	4	22
Health, Ageing and Community Services	5	32
Justice and Community Safety	3	18
Planning and Urban Renewal	5	10
Public Accounts	2	17

5 OTHER JURISDICTIONS

- 5.1 A survey of committee structures in other jurisdictions reveals that the issues being faced by the Legislative Assembly are not unique and that there are many variations and permutations of the same fundamental components.
- 5.2 The Committee sought information on the committee arrangements that apply in other parliaments and were struck by the variety of approaches. There did not seem to be any one consistent approach to parliamentary scrutiny of the Executive through the committee system. This is compounded by the use of joint and select committees by bicameral parliaments.
- 5.3 Specifically, the Committee asked for information:
- on the number of committees established,
 - how many ministers and how many committees do they report to?
 - how many members are available to sit on committees and on average how many does each non-executive member sit on?,
 - does each committee scrutinise one minister/portfolio?,
 - is a separate estimates committee established to consider the annual appropriations.
- 5.4 Information on the use of sub-committees and remuneration was also sought.
- 5.5 Below is an analysis of the arrangements that apply to committees in selected jurisdictions.

QUEENSLAND LEGISLATIVE ASSEMBLY

- 5.6 The Queensland Legislative Assembly is a unicameral parliament with 93 Members. There are 18 Ministers. There are seven portfolio committees with responsibilities set out in the Standing Orders. Each portfolio committee currently covers between two and four Ministries. Portfolio committees, in the current parliament, have six members – three government and three non-government members. The size of the membership and composition are determined by formulae set out in the Parliament of Queensland Act.
- 5.7 The three statutory committees are the Committee of the Legislative Assembly; the Parliamentary Crime and Corruption Committee; and the Ethics Committee. These committees have memberships of eight, seven and six respectively.
- 5.8 There are a total of 63 committee places. Eleven members sit on two committees.

- 5.9 In relation to the estimates process, there is no separate estimates committee with each of the seven portfolio committees examining and reporting on proposed expenditures on the appropriation bills.
- 5.10 Standing orders enable committees to establish sub-committees by resolution, with three or more members. The role of Chair and Deputy Chair of the Sub-committee is determined at the time of establishment. There is no additional remuneration for members of any committee other than the Chair.

NORTHERN TERRITORY LEGISLATIVE ASSEMBLY

- 5.11 The Northern Territory Legislative Assembly is a unicameral parliament with 25 Members. There are nine Ministers. There are currently three scrutiny committees and three domestic committees although there have been up to 10. Each Minister is accountable to the annual Estimates Committee, the Legislation Scrutiny Committee and the Public Accounts Committee.
- 5.12 On average each non-executive Members is on 1.7 committees with the three committees scrutinising all portfolios.

TASMANIAN HOUSE OF ASSEMBLY AND LEGISLATIVE COUNCIL

- 5.13 The Tasmanian House of Assembly currently has no select or standing committees specifically examining portfolio areas. There are frequently a number of select committees established (but none at the moment). Eight Members of the House of Assembly are Ministers with the 9th Minister from the Legislative Council.
- 5.14 House of Assembly Members currently sit on four statutory joint standing committees (Integrity, Public Works, Subordinate Legislation and Public Accounts). 17 non-executive Members are available to sit on committees and membership ranges up to five committee for a Member. With the establishment of select committees, it is not unusual for government backbenchers to sit on a significant number of committees.
- 5.15 The House of Assembly establishes via resolution two Select Committees on Estimates for each budget year.

NEW SOUTH WALES LEGISLATIVE ASSEMBLY AND LEGISLATIVE COUNCIL

- 5.16 The NSW Legislative Assembly has 17 committees: eight standing, five joint statutory, three joint standing and one joint select. 23 Members of the Assembly are Minister as are three Members of the Council. The Joint Standing Committee have at least one Minister responsible for their subject areas with the exception of the public accounts committee and the legislation review committee which seek responses from all/most ministers.

- 5.17 There are approximately 71 Members of the Legislative Assembly eligible to serve on committees however there is no clear formula for the allocation of committee membership. Some non-government Members do not serve on any committees and government Members typically serve on between one and three committees. One Member serves on five committees.
- 5.18 Ministers, with the exception of oversight bodies or joint standing committees, would normally respond to issues and inquiries from one portfolio standing committee.
- 5.19 In relation to the estimates process, the Assembly does not appoint a separate budget estimates committee but it may do so under the standing orders. The functions of the portfolio committees allows for the examination of finances and annual reports within their portfolio areas.
- 5.20 The NSW Legislative Council has three longstanding subject standing committees, seven portfolio standing committees, currently four select committees and six specialised committees (privileges, procedures, selection of bills, regulation, public works and public accounts).
- 5.21 With 38 members from the Legislative Council available to participate in committees, it appears that the number of committees a member is on varies from none to the Deputy Presiding Officer who is on nine committees. On average a member would sit on 3.5 committees.
- 5.22 Budget estimates and related papers are referred to the seven standing portfolio committees for inquiry and reports.

VICTORIA LEGISLATIVE ASSEMBLY AND LEGISLATIVE COUNCIL

- 5.23 The Legislative Assembly has a total of seven committees, five standing and two joint investigatory committees. Of these committees three deal with portfolio matters and each has seven members. The three standing committees have a reference/inquiry role and a legislation role that looks at annual reports, estimates and bills.
- 5.24 There are 17 ministers in the Assembly leaving 70 members available to sit on committees. 34 Members are available to sit on Council committees and on average each available member is active on two committees and a small number on three.
- 5.25 Same as the Assembly, each of the Legislative Council standing committees are allocated one, three, and four portfolios for oversight.
- 5.26 Estimates and budget scrutiny is conducted by the Public Accounts and Estimates Committee, a longstanding committee, first established in 1895.

SOUTH AUSTRALIA HOUSE OF ASSEMBLY AND LEGISLATIVE COUNCIL

- 5.27 There are a total of 11 standing committees established by legislation. Five are administered by the House of Assembly and the balance by the Legislative Council. In the House of Assembly 36 non-executive members are eligible to sit on standing committees with most members sitting on at least one although some sit on up to three.
- 5.28 There is no relationship between a committee's ambit and a Minister's particular portfolio responsibility, and the standing committee structure does not follow portfolio/minister – nor does it provide an alignment of portfolios.
- 5.29 The budget is scrutinised by two sessional estimates committees.

NEW ZEALAND

- 5.30 Twelve subject committees and one statutory committee undertake the scrutiny role. In addition, there are five specialist committees which undertake a 'housekeeping' role. In the 2019-2020 estimates process, 10 ministers appeared before one committee, 10 before two committees, five before three committees, two before four committees, and one before five committees.
- 5.31 One hundred and nine permanent committee positions are available across 12 subject committees and it is common for non-executive members to sit on two or sometimes three committees.
- 5.32 Nearly all committees have more than one subject area and therefore have multiple ministers responsible for providing input to inquiries. Budget proposals are examined by the subject committees.

WESTERN AUSTRALIA LEGISLATIVE ASSEMBLY

- 5.33 The Legislative Assembly of Western Australia has seven standing committees, two of which are joint oversight committees. Each member of the Legislative Assembly is appointed to only a single committee.
- 5.34 Each committee (with the exception of the joint committees) is responsible for scrutinising multiple minister and portfolios, for example, the Community Development and Justice Standing Committee scrutinises the activities of 10 ministerial portfolios and two parliamentary secretaries.

HOUSE OF REPRESENTATIVES AND SENATE — COMMONWEALTH

- 5.35 Eleven standing committees and 16 joint committees have been established in the current session of the House of Representatives with government department or agencies reporting to

multiple ministers. There are 98 members available to sit on committee with most members sitting on three committees on average.

- 5.36 A separate estimates committee/s is not established with the main appropriation bills being considered in the Federation Chamber.
- 5.37 The Senate has eight committees which serve two roles: legislative scrutiny and references/inquiry. There are also a number of select committees operating at any one time.
- 5.38 Senators who are not ministers or assistant ministers are technically available to sit on committees and usually serve on more than one committee as either a core or participating member. Each committee is allocated at least two portfolio areas.
- 5.39 The Senate's legislation committees inquire and report on the budget over three rounds of scheduled hearings.

6 SUMMARY OF SUBMISSIONS

- 6.1 Copies of the submission received by the Committee can be found on the Assembly website at: <https://www.parliament.act.gov.au/parliamentary-business/in-committees/committees/standing-committees-current-assembly/standing-committee-on-administration-and-procedure/inquiries/inquiry-into-the-committee-structure-for-the-tenth-assembly>

CHIEF MINISTER

- 6.2 In his submission to the Committee, the Chief Minister advised that due to COVID-19 health emergency, the government was not in a position to provide a detailed response.
- 6.3 He proposed that any review of the committee system be delayed until the 10th Assembly.

AUDITOR-GENERAL

- 6.4 The Auditor-General has significant interaction with Standing Committee on Public Accounts (PAC) especially in relation to the examination of audit reports. In his response the Auditor-General proposed that the Audit Office provide periodic briefings to the Standing Committee on Public Accounts to address outstanding audit recommendations.
- 6.5 Alternatively, he suggested that the PAC be briefed by the Auditor-General on the environmental scan undertaken by the Audit Office in developing its Performance Audit Program.

STANDING COMMITTEE ON ECONOMIC DEVELOPMENT AND TOURISM

- 6.6 In his submission the Chair of the Standing Committee on Economic Development and Tourism (EDT), indicated the committee's support of the suggestion that bills be automatically referred to committees and but indicated that appropriate time framed would need to be established and the ability to decline to conduct any such inquiry.
- 6.7 In relation to the use of language and the need for committee titles to more directly reflect directorates, the EDT committee's view was that clear subject matter committees did not equate to explicitly reflecting directorates.

- 6.8 The review of the budget proposals by individual standing committees was considered by the EDT committee to risk lacking oversight of the budget as a whole.

STANDING COMMITTEE ON PUBLIC ACCOUNTS

- 6.9 In a statement to the Assembly pursuant to Standing Order 246A, the Chair of the Standing Committee on Public Accounts (PAC) responded to the recommendation of this Committee's report No. 16 on the implementation of the Latimer House Principles in the ACT. The chair commented on the workload and the outputs of the PAC and expressed the PAC's belief that these matters were not adequately reflected in the original review, nor in the report on the Review.
- 6.10 The PAC proposed a possible model for a public accounts committee to include an expanded membership, to permit the establishment of sub-committees that would undertake additional inquiries which could run simultaneously. Under this proposal, the Deputy Chair would take on a greater (remunerated) role to chair subcommittees.
- 6.11 In relation to the referral of Bills to committees, the PAC was in favour of more referrals of Bills with committees having the option to decline to pursue an inquiry in every instance. Possible resourcing issues in the Committee Support Office were highlighted.

STANDING COMMITTEE ON THE INTEGRITY COMMISSION

- 6.12 The Chair of the Standing Committee on the Integrity Commission (ICC), advised that the ICC considered the comments of the Latimer House review and subsequent committee report, and advised that, given the Committee's unique statutory role, some of the matters were not relevant.
- 6.13 In relation to committee titles and roles accurately reflecting directorates, the ICC was of the view that this was not necessarily desirable,

STANDING COMMITTEE ON HEALTH, AGEING AND COMMUNITY SERVICES

- 6.14 The Chair of the Standing Committee on Health, Ageing and Community Services (HACS) provided comments to the Committee which reflected on the number of committees and the membership. The Chair expressed concern that the number of backbenchers available to sit on committees was an important consideration, particularly in light of the possibility that the

executive had the capacity to increase to nine ministers, further reducing the number of non-executive members available to serve on committees.

- 6.15 In regard to alignment with directorates, the HACS committee was of the view that whilst it was an ideal concept the current cross-integration of multiple portfolios would be unachievable.
- 6.16 The HACS committee was supportive of giving committees a legislative role in addition to its reference/inquiry role with committees considering all bills referred to it.
- 6.17 Appropriate resourcing of this proposed enhanced role would be required.

STANDING COMMITTEE ON ENVIRONMENT AND TRANSPORT AND CITY SERVICES

- 6.18 The Chair of the Standing Committee on Environment and Transport and City Services (ETCS) proposed that, in order for committees to undertake the consideration of all bills, the membership of committees should be increased from three to five members, subcommittees should be permitted, and deputy chairs remunerated.
- 6.19 In relation to aligning committees with directorates, ETCS expressed the view that committees should be clearly subject matter committees and noted that a given directorate structure was likely to change through the course of an Assembly.
- 6.20 The estimates process was discussed, and the view expressed by the ETCS committee was that there was merit in trialling standing committees undertaking that budget scrutiny role.

STANDING COMMITTEE ON EDUCATION, EMPLOYMENT AND YOUTH AFFAIRS

- 6.21 The Chair of the Standing Committee on Education, Employment and Youth Affairs (EEYA) noted that whilst in agreement with the proposal that greater use be made of standing committees it was concerned that about the potential for increased workload for both members and committee support staff.
- 6.22 The EEYA committee considered that the titles/names of committees should not inhibit a committee from inquiring into topics that may be seen to reach into another committee's scope.

6.23 The EEYA committee commented that the budget proposals examination (ie estimates) should be conducted by a select committee and also suggested that all petitions, regardless of size, should be referred to standing committees.

7 LATIMER HOUSE REVIEW RECOMMENDATION — SHARPENING OF LANGUAGE

7.1 In its report, the Latimer House reviewers argued that:

There is a case for reviewing the role of committees including the language used should be sharpened by referring to scrutiny of the executive and investigation of public policy matters.

7.2 In submissions to this inquiry, the standing committees on the Integrity Commission, Environment and Transport and City Services and Education, Employment and Youth Affairs all supported this proposition.

7.3 This Committee also supports setting out in the resolution of appointment of standing committees a more detailed description of their important role and function. The resolution of appointment of the committees of the 9th Assembly, which was agreed to by the Assembly on second sitting on 13 December 2016, stated that:

The following general purpose standing committees be established and each committee inquire into and report on matters referred to it by the Assembly or matters that are considered by the Committee to be of concern to the Community.

7.4 The Committee considers that this form of words could be sharpened and refined, and make a recommendation to this effect below.

Recommendation 1

7.5 The Committee recommends that the motion at Attachment A (which incorporates all of the recommendations in this report) be adopted by the 10th Assembly.

8 LATIMER HOUSE REVIEW RECOMMENDATION — GREATER USE OF STANDING COMMITTEES IN EXAMINING BILLS

8.1 The Latimer House Review report identifies that relatively few bills are referred to Assembly committees, with the highest number in recent years being seven bills, which represented only 11 percent of bills considered by the Assembly.

Table 1: Percentage of bills referred to Assembly committees

Year	Percentage of bills referred to Assembly committees
2012	8%
2013	7%
2014	8%
2015	7%
2016	8%
2017	4%
2018	11%

8.2 A number of committee chairs commented to the committee on the recommendation, with the Economic Development and Tourism, Education, Employment and Youth Affairs, Environment and Transport and City Services, Health, Ageing and Community Services, Public Accounts Committee and the Integrity Commission Committees all supporting the proposal, but noting that additional resources would be required, as well as an ability for committees to decline to inquire into a bill, and that clear timeframes be set for committees to complete any inquiries into bills.

8.3 In terms of additional resources for committees were more bills inquiries to be undertaken, one committee secretary informed the Clerk that, in their view, each committee would need to have a full-time secretary and a full-time researcher allocated to perform this additional task. Another secretary observed that referring bills to committees more regularly “could

potentially improve the quality and legitimacy of the legislature and increase public trust in the Assembly”.

- 8.4 The Standing Committee on Health, Ageing and Community Services noted that in two other unicameral parliaments, namely New Zealand and Queensland, all bills are referred to committees, but that the committees will usually report within six months of the date of referral. Were this to become a practice at the Assembly, the Executive would have to adjust to such a timetable as currently bills are passed quite quickly in comparison to the two jurisdictions mentioned above. Referring bills regularly to committees would also have the advantage of allowing the scrutiny of bills process – which is often very rushed – to be done in a more considered manner.
- 8.5 The Committee notes that the Commonwealth Parliamentary Association’s *Benchmarks for Democratic Legislatures* (which this Assembly has rated itself against twice – once in 2007 and again in 2019) found in its latest review the following shortfall:

3.2.2 There shall be a presumption that the Legislature will refer legislation to a Committee, and any exceptions must be transparent, narrowly-defined, and extraordinary in nature.	1	There is no requirement that legislation is to be referred to a policy committee for inquiry and report. However, the Standing Committee on Justice and Community Safety (Legislative Scrutiny Role) examines: 1. all bills; 2. all amendments to any bills; and 3. subordinate legislation. The committee must consider various rights issues as well as other matters provided for in the committee’s resolution of appointment . See also standing order 182A relating to legislative amendments receiving scrutiny from the committee.
3.2.3 Committees shall scrutinize legislation referred to them and have the power to recommend amendments or amend the legislation.	1	See 3.2.2

- 8.6 The Committee sees merit in all bills being referred to the relevant Assembly committee, with the proviso that the committee may decline to conduct an inquiry if it so chooses and that committees are to be adequately resourced to undertake the additional work. Of course, standing orders already provide that the Assembly may declare a Bill an urgent Bill, and Standing order 175 would also need to be amended were this recommendation be agreed to.
- 8.7 The scrutiny of bills and subordinate legislation, currently undertaken by the Standing Committee on Justice and Community Safety (Legislative Scrutiny Role) would be continue be a key role. General purpose standing committees would not be expected to undertake this type of legislative scrutiny.

Recommendation 2

- 8.8** The Committee recommends that the resolution appointing committees include a provision requiring that, upon introduction to the Assembly, all bills be referred to the relevant committee for inquiry and report. Should a committee decide not to conduct an inquiry it shall make a statement, under standing order 246A, informing the Assembly of that decision in a timely manner. Should the committee decide to inquire into a bill, the minimum time for the committee to report would be two months, and the maximum six months.

Recommendation 3

- 8.9** The Committee recommends that if recommendation No 2 is agreed to, each committee that has bills referred to it should be allocated a research officer to assist with the examination of proposed legislation.

9 LATIMER HOUSE REVIEW RECOMMENDATION

— SUBJECT MATTER COMMITTEES THAT REFLECT DIRECTORATE STRUCTURES

- 9.1 The Standing Committee on Economic Development and Tourism, the Standing Committee on Education, Employment and Youth Affairs, the Standing Committee on Health, Ageing and Community Services, and the Standing Committee on the Integrity Commission were not supportive of the Latimer House reviewer's proposal that standing committees should more explicitly reflect directorates, and be clearly subject matter committees.
- 9.2 Several committees pointed out that the composition of directorates is in the remit of the Executive to determine and that it would not be appropriate to restructure committees on this basis. A number of committees also observed that when there are changes in ministers there are often restructures of the administrative arrangements with resultant changes in directorates.
- 9.3 The Standing Committee on Environment and Transport and City Services saw some merit in more closely aligning standing committees with directorates and supported the idea that these should be clearly subject matter committees.
- 9.4 As can be seen from the history of committees in the Assembly outlined in chapter 3 of this report, during the early years of self-government subject matter committees were the norm. In the 5th Assembly the committees were based on 6 subject areas, namely:
1. Health
 2. Education
 3. Legal Affairs
 4. Planning and Environment
 5. Public Accounts
 6. Community Services and Social Equity.
- 9.5 It should be noted that, in the first Assembly, the Chief Minister allocated a total of six portfolios to the ministers she appointed. Over the years this has grown substantially, and the current number of portfolios allocated to the eight ministers of the Territory is 37. The committee sees little value in having the same number of committees as executive portfolios. However, the committee sees some merit in subject matter committees and considers it warrants further thought. Attached to this report is an option for the Assembly should it want to proceed along the path of simpler subject matter committees not necessarily tied to directorates or the myriad of portfolio responsibilities that currently exist.

10 LATIMER HOUSE REVIEW RECOMMENDATION — COMMITTEE TITLES

- 10.1 The Latimer House reviewers recommended that the some subjects incorporated in committee titles that are not given obvious attention in committee activity should be dropped.
- 10.2 The Standing Committee on Environment, Transport and City Services pointed out to the Committee that it had undertaken inquiries into the full range of subject matter including in its title.
- 10.3 It should also be noted that each year all of the executive agencies' annual reports (which would cover all the subjects in committee titles) are referred to the various standing committees, and are subsequently reported on during the term of each Assembly. On this basis, the Committee rejects the proposition that subjects in committee titles are not given obvious attention.

11 LATIMER HOUSE REVIEW RECOMMENDATION — SOME SELECT COMMITTEE ACTIVITY TO BE DEALT WITH BY STANDING COMMITTEES

11.1 As can be seen from the table below, the 9th Assembly has appointed the highest number of committees since self-government and certainly more than the past three Assemblies.

Table 2: Number of committees established in each Assembly

Assembly	Number of standing committees	Number of select committees	Total number of committees
1 st	7	12	19
2 nd	9	8	17
3 rd	7	8	15
4 th	6	11	17
5 th	7	10	17
6 th	6	6	12
7 th	7	10	17
8 th	6	7	13
9 th	9	12	21

11.2 There does not always appear to be a consistent approach to the creation of a select committee. For example, the 2016 election was referred to a specially created select committee, whereas the 2008 election was referred to the Standing Committee on Justice and Community Safety. It also should be noted that it is that committee that has a role in the Electoral Commissioner’s budget process and which oversights its annual report. It would appear to be the logical committee to refer such an inquiry.

11.3 Non-executive members of the Assembly undertake a range of roles, and committee work is just a part of their responsibilities. These members also:

- represent their electorate and deal with constituency matters;

- are members of political parties and attend party meetings and functions;
- can be shadow ministers, some represent a minister when she/he is not available;
- undertake parliamentary roles such as Deputy Speaker or a whip; and
- participate in scrutinising the Executive and analysing legislation that, if passed by the Assembly, becomes the law of the Territory.

11.4 The demands of the committee system must be balanced against these competing responsibilities. It is important to consider the amount of committee work each member is given as this can affect their ability to perform their other roles, as well as their ability to participate fully in committee activities.

11.5 As can be seen from the table below, the ACT has a large number of committees in comparison with other legislations of similar size. Note that the ACT has the same number of committees as the Queensland Parliament, yet it has 63 members available for committee work compared to the Assembly's 16.

Table 3: Number of committees established in Australian parliaments

Parliament	Number of available members	Number of committees	Total number of committees	Number of ministers
House of Representatives	98	11 Standing 16 Joint	27	32
New Zealand	95	12 Subject 1 Statutory 5 Specialist	18 ¹⁸	27
New South Wales – Legislative Assembly	71	8 Standing 5 Joint Statutory 3 Joint Standing 1 Joint Select	17	20
South Australia – Legislative Council	18	10 Select 6 Standing	16	3

¹⁸ In July 2020, the New Zealand Standing Orders Committee reported and recommended (p 5) that smaller select committees be established, noting that some members have too many committee commitments. See Review of standing orders 2020, Report of Standing Orders Committee, July 2010.

Parliament	Number of available members	Number of committees	Total number of committees	Number of ministers
New South Wales – Legislative Council	38	10 General Purpose 4 Select	14	3
Australian Capital Territory	16	9 Standing 1 Select	10 ¹⁹	8
Queensland	63	7 Portfolio 3 Statutory	10	28
Tasmania – House of Assembly	17	4 Joint Statutory 2 Standing 2 Joint Sessional	8	8
Victoria – Legislative Council	70	5 Statutory 2 Joint	7	17
Western Australia – Legislative Assembly		7 Standing	7	14
Northern Territory	15	3 Scrutiny 3 House	6	9
Victoria – Legislative Council	34	6 Standing	6	5
South Australia – House of Assembly	36	5 Standing	5	13

11.6 Over the life of an Assembly each MLA is a member, on average, of five standing or select committees and attends, on average, almost 26 meetings a year. But when the figures are more closely examined, it can be shown that two MLAs were members of ten committees, one

¹⁹ In 2018, this number was higher – 13 – as there were a number of select committees operating concurrently.

a member of nine committees, one a member of seven committees and two were a member of six committees.

11.7 These figures are from a period when most committees were three-member committees – in the earlier part of the 9th Assembly most committees comprised four members, and so this number was higher (although it is acknowledged that the ministry was smaller during this period, which meant more non-executive MLAs were available for committee work).

11.8 As a consequence of having a large number of standing and select committees, as can be seen from the table below, an ACT MLA is on considerably more committees than most of their counterparts in the rest of Australia.²⁰

Table 4: Average number of committees a member serves

Parliament	Average number of committees for each Member
Australian Capital Territory	5
New South Wales – Legislative Council	3.5
House of Representatives	3
New Zealand	2-3
South Australian – Legislative Council	More than 2
Victoria – Legislative Assembly and Legislative Council	2
Queensland	2
New South Wales – Legislative Assembly	Some none, some 1-3
Northern Territory Legislative Assembly	1.7
South Australia – House of Assembly	1-2
Western Australia – Legislative Assembly	1
Tasmania – House of Assembly	0-5

²⁰ Figures obtained via ANZACATT List-Server inquiry June 2020.

11.9 The Committee is aware that there can be difficulties arranging hearings due to members being on a number of committees, with a limited number of time slots that do not clash with other committee private meetings, hearings, party meetings, members' absences on Assembly business or when MLAs take leave. This problem is exacerbated by the time that is taken up by during the estimates and annual reports inquiry processes. Accordingly, there are a substantial number of committee meetings that are held without all members being present. In 2018-19, 25 percent of either private or public meetings were held without the full membership of the committee present.²¹

11.10 Following a request by another committee to undertake a particular inquiry, the chair of one of the Assembly's standing committees wrote to the Speaker advising that:

Members of the Committee have substantial commitments to other inquiries, including those being conducted by the Select Committee on the COVID-19 Pandemic Response, the Standing Committee on Public Accounts, the Standing Committee on Health, Ageing and Community Services and the Standing Committee on Planning and Urban Renewal.

11.11 It is clear from the above that the large number of standing and select committees are having an effect on the committee system that is currently in place.

11.12 Recognising that members have limited time and resources available for committee work when other pressures are taken into consideration, this Committee urges that the 10th Assembly to carefully consider the number of committee it decides to establish and to avoid establishing select committees where an inquiry is able to be conducted by an existing standing committee.

Recommendation 4

11.13 In considering the structure and form of the Assembly committee system for the 10th Assembly, the Committee recommends that the Assembly have regard to the following:

- **MLAs do not serve on more than two committees;**
- **no more than eight standing committees are established (including the Standing Committee on Administration and Procedure);**
- **there is a presumption of referring matters to standing committees, rather than establishing select committees; and**
- **as a general rule, only one select committee operates at any one time.**

²¹ Office of the Legislative Assembly Annual Report 2018-19, p 61.

12 LATIMER HOUSE REVIEW RECOMMENDATION — BUDGET ESTIMATES BY STANDING COMMITTEES

12.1 The Latimer House Review recommended that:

- *much select committee activity might be incorporated in standing committees including estimates*

12.2 This matter has been discussed on numerous occasions in recent years. It was the subject of an inquiry by this Committee in the 7th Assembly, and a statement was made by the Chair on 8 March 2011²² with no resolution preferred. The Assembly at that time did not proceed down any of the options considered and the Select Committee on Estimates was again established. It was also the subject of an inquiry in the 9th Assembly²³.

12.3 In that report, the Committee made no recommendation, stating:

Having regard to the previous work of this Committee in the 7th Assembly, the committee resolved:

- (a) that a decision on whether to establish a Standing Committee on Estimates 2018-2019 should be made at the March 2018 sittings; and
- (b) that the matter be left in the hands of the Assembly, and to assist that consideration, attached to this report documents showing:
 - (i) a paper showing the practices in legislatures across Australian and New Zealand; and
 - (ii) the options paper prepared in 2010 listing six options to consider the estimates in the appropriation.

The Committee also agreed that it would further consider the matter at a future meeting of the Committee.

12.4 The Assembly has, to date, continued to establish a select committee to inquire into and report on budget estimates.

12.5 The Committee also examined this matter as part of its major review of the standing orders following receipt of a submission by the Labor Caucus arguing that appropriations bills and budget estimates be examined by standing committees.

²² MoP 2011/93 p 1162

²³ See Report No 6 of the Standing Committee on Administration and Procedure.

- 12.6 One reason for referring estimates to the various general purpose standing committees and perhaps the most compelling for standing committees to do this work is that members develop an expertise/knowledge in particular policy areas that can be called upon to enhance scrutiny of the budget/appropriation proposals.
- 12.7 Having considered the matter, and noting the comment in the Latimer House Review report, the Committee suggests that a trial of standing committees examining the budget be conducted for one budget process and then evaluated for its effectiveness. Should the evaluation demonstrate that the trial was not successful, the Assembly could resolve to return to the select committee process. It is envisaged that, like the annual reports, the proposed estimates for agencies be scrutinised by all committees, with the exception of the Standing Committee on Public Accounts which would engage the independent reviewer of the Appropriation Bill and examine the overall budget position.

Recommendation 5

- 12.8 The Committee recommends that the 2020-2021 Budget be referred to standing committees as a trial, and that, at the completion of that process, the Standing Committee on Administration and Procedure undertake a review to ascertain whether or not it offers up benefits over the existing process.**

13 LATIMER HOUSE REVIEW RECOMMENDATION

— PUBLIC ACCOUNTS COMMITTEE REVIEW

- 13.1 The Latimer House Review recommended that the Legislative Assembly should review the purpose and operation of the Public Accounts Committee with reference to how they operate in comparable jurisdictions.
- 13.2 When this Committee reported on recommendation No 16 in February 2020, it noted the comments made in the Latimer House Review and indicated that it was concerned that the role of the Standing Committee on Public Accounts in reporting on Auditor-General reports had not been undertaken at the same level as in previous assemblies.
- 13.3 This Committee recommended to the Assembly that the matters raised in the Latimer House Review be brought to the attention of the Standing Committee on Public Accounts and that the committee be invited to respond to the Assembly on why so few reports on Auditor-Generals reports had been presented.²⁴
- 13.4 In May this year the Chair of the Standing Committee on Public Accounts made a standing order 246A statement responding to this Committee’s invitation to respond to the Latimer House Review. The Chair of the committee told the Assembly:

The committee considered the recommendation in its private meetings on 6 May. The committee notes that the review of the performance of the three branches of government in the Australian Capital Territory against Latimer House principles only reported on one metric: the number of Auditor-General’s reports reported on. It did note in passing that, at the time of reporting, the public accounts committee met more frequently and for longer times than other committees and had held more public hearings.

Neither the review nor the subsequent report of the Standing Committee on Administration and Procedure considered what was in the pipeline at the time. One simple metric would be the number of active reports listed on the committee website. I hope that the Hansard can pick up the irony in my voice.

In this Assembly the committee has inquired into three very substantial Auditor-General’s reports, one of which has been tabled and one that will soon be tabled—that is, as soon as I finish speaking on this. The third will be tabled in or by August this year.

²⁴ Standing Committee on Administration and Procedure, *Report No 16, February 2020*, pp 13-4.

In addition, the committee has reported on two references from the Assembly, on residential and commercial rates; and another Auditor-General’s report, on WorkSafe ACT’s management of Mr Fluffy demolitions.

Since the review report, the committee has also conducted an inquiry into supplementary appropriations, as well as the usual committee business of inquiring into annual reports. The committee is quite aware that it undertakes inquiries according to the resources available. It is axiomatic that if there were more resources there would be more inquiries.

In considering a possible model for the future public accounts committees of the Assembly, the committee recommends that the membership be greater, allowing subcommittees to be formed to undertake more inquiries, which could run simultaneously. The main committee would inquire into larger matters of note, while the subcommittees would inquire into matters which were more routine.

In this model the position of deputy chair would be given greater responsibility—that is, to chair subcommittees—and should therefore rightly be remunerated for that role. This would align more closely with the structure and operation of public accounts committees across the commonwealth. As far as the committee is aware, the ACT Standing Committee on Public Accounts has the smallest membership of any committee in Australia. This has a limiting effect on what it has been able to do in any one Assembly.

13.5 The Committee notes that successive Public Account Committees have regularly reported on Auditor-General reports, as can be seen from the following table.

Table 5: Reports on Auditor-General’s reports by the Standing Committee on Public Accounts

Assembly	No of Auditor-General reports reported on by the Standing Committee on Public Accounts
1 st	1
2 nd	14
3 rd	26
4 th	26
5 th	6

Assembly	No of Auditor-General reports reported on by the Standing Committee on Public Accounts
6 th	10
7 th	16
8 th	21
9 th	3 ²⁵

13.6 As each Auditor-General report is presented in the Assembly it is automatically referred to the Standing Committee on Public Accounts, and this has been the practice since just after self-government. In the period from 2016-2019, the Auditor-General has produced 41 reports, an average of 10 reports per year, which cover the whole spectrum of government activity in the Territory. With each of these reports being referred to the Standing Committee on Public Accounts, it creates a considerable workload.

13.7 Recognising this workload, and in considering ways to change practices when the Assembly increased in size from 17 to 25 members, the then Speaker presented a discussion paper to the Assembly on 11 August 2016 outlining possible changes to the way the Assembly might operate in an expanded Assembly. The paper canvassed how Assembly committees might operate, and included the following comment:

1.1 With two exceptions, it is suggested that committees stay essentially the same for the 9th Assembly:

- (1) The Standing Committee on Public Accounts (PAC) should be split into two committees. The reason for this split is that it is clear from the number of Auditor-General reports presented that that committee has a higher workload than other standing committees, with almost 40% of all reports being presented in this Assembly coming from that one committee.

²⁵ As at 7 August 2020, one inquiry was underway

It is suggested that a new committee be created to take on the non Auditor-General aspects of the current PAC. That committee would examine the annual reports, statutory reports and policy matters of the CMTEDD directorate leaving the PAC to deal more comprehensively and exclusively with Auditor-General reports.

- 13.8 This suggestion was taken up and implemented at the commencement of the 9th Assembly, with the creation of an additional standing committee—the Standing Committee on Economic Development and Tourism—which was tasked by the Assembly to examine matters relating to economic and business development, small business, tourism, market and regulatory reform, public sector management, taxation and revenue, procurement, regional development, international trade, skills development and employment creation, and technology, arts and culture.
- 13.9 In October 2017, the Assembly amended the resolution of appointment of both the Standing Committee on Public Accounts and the Standing Committee on Economic Development and Tourism in order that matters previously within the remit of the Standing Committee on Economic Development and Tourism would fall within the remit of the Standing Committee on Public Accounts.
- 13.10 The motion was passed without debate, so no reason was given for the change. Subsequently, the Assembly, on 15 February 2018, referred to the Standing Committee on Public Accounts an inquiry into the methodology for determining rates and land tax for strata residences, with the committee reporting seven months later, on 20 September 2018. Then, on 29 November 2018, the Assembly referred an inquiry into commercial rates also to the Standing Committee on Public Accounts, and it reported on 4 April 2019.
- 13.11 Thus, the Standing Committee on Public Accounts spent almost a year of a four year term inquiring into matters which the Assembly, at its commencement in 2016, had expressed a wish to be dealt with by another committee as, in the words of the Speaker’s discussion paper, it wished the Standing Committee on Public Accounts to “deal more comprehensively and exclusively with Auditor-General reports”.
- 13.12 In report No 296 of the Commonwealth’s Joint Committee of Public Accounts, the committee, which was examining the role and operation of the Commonwealth Audit Office, entitled its report *The Auditor-General: Ally of the People and Parliament*.²⁶ In a speech subsequent to that report’s tabling, the then Commonwealth Auditor-General noted that:

The Auditor-General, independent of both the executive government and the Parliament, is an essential part of the Westminster system of public accountability. The

²⁶ Joint Committee of Public Accounts, *The Auditor-General: Ally of the People and Parliament*, Report No 296, 1989.

holder of that Office has the statutory responsibility to report to the parliament on the integrity, economy and efficiency of the financial operations of executive government. This responsibility supports the Parliament's role as representative of the people and as the forum within and from which the concepts of public inquiry and of public scrutiny are turned into effective action.

13.13 In 2013, the Assembly made the Auditor-General an Officer of the Assembly, recognising its independent and important role in the system of government in the Territory. The 2020 Strategic Review of the ACT Auditor-General completed in February 2020 (presented to the Assembly on 20 February 2020) made a number of recommendations to enhance the operation of the office. One recommendation (No 5) was that the Auditor-General:

... consider options, including in consultation with the PAC, to facilitate a more systematic approach to highlighting outstanding Audit recommendations.²⁷

13.14 In a letter to this Committee's review, the ACT Auditor-General supported the strategic review's recommendation, stating:

An area where I believe there is an opportunity to work in collaboration with the PAC is in relation to follow up of action taken in response to audit recommendations and this was the subject of recommendation 5 of Mr Pearson's report.

13.15 In addition, the Auditor-General suggested:

Options to consider in relation to addressing outstanding audit recommendations range from a periodic briefing by the Audit Office to the PAC through to developing an additional report to the Legislative Assembly which could be examined consistent with other reports of the Auditor-General in terms of the resolution establishing the PAC. Both the Audit Office and the PAC have limited resources however it may be possible to leverage the existing work of the Audit Office, for example, as an adjunct to developing the Performance Audit Program.

In developing that program, the Office undertakes an environmental scan to identify matters of interest and concern. The scope of this scan could be expended, and a by-product could be a briefing to the PAC on exceptions and anomalies identified in relation to outstanding audit recommendations. Alternatively, a periodic, probably annual, review of the status of outstanding recommendations around two years after the ACT Government response to each audit report has been tabled could be undertaken and a factual report tabled in the Legislative Assembly.

13.16 The Committee's view is that the Auditor-General produces invaluable work concerning the scrutiny of taxpayer expenditure and the Public Accounts Committee contributes towards the

²⁷ Des Pearson AO, 2020 Strategic Review of the ACT Auditor-General, 13 February 2020.

scrutiny of the Executive by ensuring that recommendations of the Auditor-General are being implemented by government. It agrees with the Latimer House reviewers that following up on Auditor-General's reports is core work of that committee.²⁸ Where the committee does not undertake regular and systematic inquiries and reports into Auditor-General's reports, there is a danger that executive agencies will not implement the important recommendations made by the Auditor-General.

Recommendation 6

13.17 The Committee recommends that the resolution establishing the Standing Committee of Public Accounts circumscribe its core role in inquiring and reporting on reports of the Auditor-General.

In the event that budget estimates are to be referred to standing committees, the Committee recommends that the Standing Committee on Public Accounts would, as part of the estimates process, examine the overall budget position of the Territory.

13.18 The Committee also agrees with the strategic review's recommendation in paragraph 13.13 above.

Recommendation 7

13.19 The Committee recommends that the Standing Committee of Public Accounts of the 10th Assembly consider options, in consultation with the Auditor-General, to facilitate a more systematic approach to highlighting outstanding Audit recommendations.

²⁸ John Halligan and Benedict Sheehy, *Review of the Performance of the Three Branches of Government in the Australia Capital Territory against Latimer House Principles*, 2019, p 18.

14 SUBCOMMITTEES

14.1 In the statement to the Assembly made by the Chair of the Standing Committee on Public Accounts in May 2020 (see above), reference was made to a possible creation of subcommittees and additional remuneration for the deputy chair of the committee.

14.2 The below table shows the arrangements that apply in other jurisdictions in relation to subcommittees and the remuneration of deputy chairs.

Table 6: Arrangements for subcommittee and remuneration of deputy chairs in Australia and New Zealand

Parliament	Subcommittees	Remuneration for committee deputy chairs
New South Wales – Legislative Assembly	No	No
New Zealand	Able to but none in existence	No
Queensland	Able to but none in existence	No
Senate	Yes	No
South Australia – House of Assembly	No	No
Tasmania	No	No
Northern Territory	Able to but none in existence	No
Victoria	Yes – 1 subcommittee (Scrutiny)	Yes – 4 percent of salary
Western Australia – Legislative Assembly	Able to but none in existence	Yes – \$755 per annum
Western Australia – Legislative Council	Able to but none in existence	Yes

14.3 As can be seen from the table, very few legislatures have subcommittees and none of the legislatures from smaller states and territories (Northern Territory, Tasmania, South Australia) have determined to incorporate subcommittees into their practice.

14.4 Having a subcommittee effectively creates an additional committee and places an even greater workload on members. For the reasons outlined previously in this chapter, to create even more workload on the members available to perform committee work is not going to enhance committee operation – rather it would hinder them.

Recommendation 8

14.5 The Committee recommends that subcommittees are not pursued as part of the practices of the Assembly committee system.

15 REMOTE MEETINGS OF COMMITTEES

15.1 From early 2020, when the COVID-19 pandemic caused restrictions to be imposed on gatherings of people, Legislative Assembly committees began to explore the use of video conferencing applications to conduct public hearings. Remote conferencing has been essential to the functioning of the committee system in the 9th Assembly although the measures adopted have been ad hoc in order to rapidly deliver a responsive and supportive forum for meetings constrained by physical distancing. The experience of different committees and different committee members using various products (some of which were available as part of the ACT government software offerings and others that were not), resulted in committee members favouring the *Zoom* product as the preferred platform.

15.2 The Office of the Legislative Assembly was provided with advice very early on by Shared Services ICT on how the *Zoom* product could be used while avoiding identified security risks. Consistent with this advice, the Office conducted *Zoom* meetings for the first hearings of the COVID-19 Select Committee and, in doing so, ensured that:

the meetings were not hosted on an ACT Government networked device;

any passwords used to host meetings were different from ACT government user passwords;

the meetings were locked;

The meeting is password protected; and

All participants enter the meeting room and can only enter the meeting by being admitted by the host.

15.3 However, it quickly emerged that government ministers were not prepared to give video evidence via the *Zoom* platform, insisting that to do so was contrary to ICT security advice they had been given. The chair of the COVID-19 Select Committee attempted to reassure the Chief Minister and other ministers and officials that the Office of the Legislative Assembly was hosting the *Zoom* meeting in a manner that was consistent with ICT security advice from Shared Services ICT. As public hearings continued over a number of months, this issue became an impasse and so when the committee was taking evidence from ACT government ministers and officials, it was done via the *Webex* forum or by Ministers participating by phone.

15.4 At the time of finalising this report, it seems to be generally accepted and expected that physical distancing requirements may remain in place for some time - perhaps years. As such, it seems quite certain that committees in the 10th Assembly will seek to continue to use video conferencing platforms - and the experience of Assembly committees through most of 2020 has been that the *Zoom* platform is the one that encounters less technical difficulties and that contains features that are best suited to the conduct of a committee public hearing. The Office continues to conduct any such meetings in accordance with the advice provided on the Shared

Services ICT website — https://actss.service-now.com/sharedservices/?id=knwl_article&sys_id=d4b8ddd5db3f0490cb8a6a1505961982

- 15.5 The Committee is satisfied that method used by the Office to host committee public hearings via the *Zoom* platform is consistent with the above advice and therefore does not pose the ICT security risks that Government ministers and officials maintain would be posed if they participated in those proceedings.
- 15.6 There is a clear difference in preference for online meeting ‘platforms’ between the Legislature and the Executive which needs to be resolved before the 10th Assembly begins proceedings ‘in committee’ and that a new mutually agreeable platform should be found (recognising the concerns of both arms of government – that is to say the concern for security by the executive and the concern for a visually and audibly functional meeting platform by the legislature).

Recommendation 9

15.7 The Committee therefore recommends that the ACT Executive arrange for:

- (1) relevant ICT Security staff from Shared Services ICT to be briefed by relevant technical and committee support staff of the Office of the Legislative Assembly on how the Office configures and hosts its committee public hearings via the *Zoom* platform; and**
- (2) based on the results of that briefing, the ACT Government report to the Speaker on what, if any, particular aspect(s) of those arrangements pose ICT security risks .**

**Joy Burch MLA
Chair**

ATTACHMENT 1: RESOLUTION OF APPOINTMENT OF GENERAL PURPOSE STANDING COMMITTEES

I move—That

- (1) the following general purpose standing committees be established as set out in the table below. The purpose of such committees is to enhance the scrutiny of the executive, to examine and suggest improvements to any bills referred to it, to enable the citizens of the Territory to engage and to participate in law-making and policy review, to enable financial scrutiny of the executives budget proposals and to review annual reports of taxpayer funded agencies;
- (2) the committees so established may inquire and report on matters referred to it by the Assembly or matters that are considered by the committee to be of concern to the community and within the nominated areas of responsibility;
- (3) calendar and financial year annual and financial reports stand referred to the relevant standing committee for inquiry and report by 31 March of the year after the presentation of the report to the Assembly pursuant to the *Annual Reports (Government Agencies) Act 2004*;
 - (a) notwithstanding standing order 229, only one standing committee may meet for the consideration of the inquiry into the calendar and financial year annual and financial reports at any given time;
- (4) all bills presented to the Assembly stand referred to the relevant standing committee for inquiry and report within 6 months from the presentation of the Bill but not before 2 months. Should the standing committee resolve not to undertake an inquiry, the Chair shall advise the Assembly within 30 days of the presentation of the Bill in the Assembly;
- (5) all reports of the ACT Auditor General tabled in the Assembly stand referred to the Standing Committee on Public Accounts for inquiry and report;
- (6) the committees so established are required to examine the expenditure proposals contained in the main appropriation bills for the for the Territory and any revenue estimates proposed by the Government in the annual Budget and prepare a report to the Assembly within 60 days of the presentation of the budget Bills;

- (a) funds be provided by the Assembly to permit the engagement of an external expertise to work with the Standing Committee on Public Accounts to facilitate the analysis of the Budget;
- (7) The Standing Committee on Legal Affairs is to perform a legislative scrutiny role of bills and subordinate legislation by:
- (a) considering whether the clauses of bills (and amendments proposed by the Government to its own bills) introduced into the Assembly:
 - (i) unduly trespass on personal rights and liberties;
 - (ii) make rights, liberties and/or obligations unduly dependent upon insufficiently defined administrative powers;
 - (iii) make rights, liberties and/or obligations unduly dependent upon non-reviewable decisions;
 - (iv) inappropriately delegate legislative powers; or
 - (v) insufficiently subject the exercise of legislative power to parliamentary scrutiny; and
 - (vi) consider whether any explanatory statement associated with legislation meets the technical or stylistic standards expected by the Assembly;
 - (b) reporting to the Legislative Assembly about human rights issues raised by bills presented to the Assembly pursuant to section 38 of the *Human Rights Act 2004*; and
 - (c) considering whether any instrument of a legislative nature made under an Act which is subject to disallowance and/or disapproval by the Assembly (including a regulation, rule or by-law):
 - (i) is in accord with the general objects of the Act under which it is made;
 - (ii) unduly trespasses on rights previously established by law;
 - (iii) makes rights, liberties and/or obligations unduly dependent upon non-reviewable decisions; or
 - (iv) contains matter which in the opinion of the Committee should properly be dealt with in an Act of the Legislative Assembly;
 - (d) consider whether any explanatory statement or explanatory memorandum associated with legislation and any regulatory impact statement meets the technical or stylistic standards expected by the Assembly.

Committee	Areas of responsibility
Health:	hospitals community and public health mental health health promotion and disease prevention disability matters drug and substance misuse targeted health programs and community services (including older persons, women, families housing poverty and multicultural and indigenous affairs)
Education:	early childhood education and care primary, secondary, post secondary and tertiary education non-government education youth services skills development
Legal Affairs:	ACT Electoral Commission community and individual rights consumer rights courts police and emergency services corrections including a prison administrative law civil liberties and human rights censorship company law law and order criminal law consumer affairs and regulatory services Access Canberra procurement industrial relations and work safety Scrutiny of Bills and subordinate legislation

<p>Planning and Environment:</p>	<ul style="list-style-type: none"> planning land management the planning process amendments to the Territory Plan consultation requirements design and sustainability outcomes including energy performance and policy matters to support a range of housing options public infrastructure heritage all aspects of climate change policy and programs water and energy policy and programs provision of water and energy services conservation, environment and ecological sustainability regional development
<p>Public Accounts:</p>	<ul style="list-style-type: none"> ACT Auditor General ACT Ombudsman accounts of the receipts and expenditure of the ACT and its authorities all reports of the Auditor-General which have been presented to the Assembly
<p>Community Services and Economic Development:</p>	<ul style="list-style-type: none"> transport and city services housing employment creation economic and business development, small business, Sport and recreation tourism regional development international trade technology, arts and culture.
<p>Integrity Commission:</p>	<ul style="list-style-type: none"> ACT Integrity Commission