STANDING COMMITTEE ON PUBLIC ACCOUNTS

Report on Annual and Financial Reports 2009–2010

APRIL 2011

Report 16

Committee membership

Ms Caroline Le Couteur MLA	Chair
Mr Brendan Smyth MLA	Deputy Chair
Ms Joy Burch MLA	Member to 19 November 2009
Mr John Hargreaves MLA	Member from 20 November 2009

Secretariat support

Secretary:	Andréa Cullen
A/g Senior Research Officer:	Lesley Irvine
Administration:	Lydia Chung

Contact information

Telephone:	(02) 6205 0142
Facsimile:	(02) 6205 0432
Email:	committees@parliament.act.gov.au
Post:	GPO Box 1020
	CANBERRA ACT 2601
Website:	www.parliament.act.gov.au

Resolution of appointment[1]

The Legislative Assembly for the ACT appointed the Standing Committee on Public Accounts on 9 December 2008 to:

(i) examine:

(A) the accounts of the receipts and expenditure of the Australian Capital Territory and its authorities; 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;

(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; and

(iv) examine matters relating to economic and business development, small business, tourism, market and regulatory reform, public sector management, taxation and revenue.

Terms of reference

Inquire into the 2009–10 annual and financial reports of government departments and agencies as listed at **Appendix A** according to the schedule determined by the Legislative Assembly for the ACT.[2]

[1] ACT Legislative Assembly, Minutes of Proceedings No. 2, Tuesday 9 December 2008, pp. 12–13.
[2] ACT Legislative Assembly, Minutes of Proceedings No. 77, Thursday 23 September 2010, pp. 906–909.

TABLE OF CONTENTS

RECOMMENDATIONS

RECOMMENDATION 1

2.29 The Committee recommends that the requirements for reporting on ecologically sustainable development (ESD), as specified in the *Chief Minister's Annual Report Directions*, should be expressed with an achievable target over a set timeframe.

RECOMMENDATION 2

2.31 The Committee recommends that, as a minimum, ACT Government agencies' annual reports include thorough reporting on ecologically sustainable development (ESD) that fully adheres to the *Chief Minister's Annual Report Directions 2007–10*.

RECOMMENDATION 3

2.33 The Committee recommends that ACT Government agencies should always present a context to their ecologically sustainable development (ESD) reporting by providing additional comparative information such as ESD outcomes from previous years, other agencies, and/or other jurisdictions.

RECOMMENDATION 4

2.49 The Committee recommends that ACT Government agencies ensure the provision of complete statements of performance and full disclosure as required by the *Financial Management Act 1996*.

RECOMMENDATION 5

2.5 The Committee recommends that ACT Government agencies should report in subsequent years on the outcomes of significant activities for which undertakings were made in the previous annual report.

RECOMMENDATION 6

3.8 The Committee recommends that ACT Government agencies should report performance information consistently from one reporting period to the next. Where changes are necessary overtime, agencies should: (i) ensure that the change is clearly described; (ii) explain the reasons for why the change has occurred; and (iii) where possible, provide data for both the original and replacement measure for the changeover year.

RECOMMENDATION 7

3.14 The Committee recommends that the Treasurer inform the ACT Legislative Assembly on the outcome of the Department of Treasury's post implementation program/initiative evaluations through the Expenditure Review and Evaluation Committee (EREC).

RECOMMENDATION 8

3.21 The Committee recommends that future whole-of-government negotiations on Enterprise Bargaining Agreements be conducted in a manner that provides timely payment of salary increases to ACT Public Service (ACTPS) employees.

RECOMMENDATION 9

3.26 The Committee recommends that the Department of Treasury in preparing its advice to Cabinet on the efficiency dividend percentage target should consider the relevance to ACT Government agencies of the findings of the Joint Committee on Public Accounts and Audit (JCPAA) inquiry into the Commonwealth Government's efficiency dividend and its impact on small agencies.

RECOMMENDATION 10

3.34 The Committee recommends that the ACT Government reconsider its decision to merge the Commissioner for Public Administration's role and function with that of the Deputy Chief Executive of the Governance Division of the Chief Minister's Department. Further, the Government may wish to consider replicating the arrangements in place for the period 2003–2006 where the Office of the Commissioner was filled at a senior executive level on a part time basis.

RECOMMENDATION 11

4.26 The Committee recommends that the Chief Minister's Department should ensure that the triple bottom line assessment policy tool encompasses more than policy formulation to include policy implementation and delivery.

RECOMMENDATION 12

4.29 The Committee recommends that the Chief Minister update the ACT Legislative Assembly in six months time on progress with regard to receipt of the federal funding for Constitution Avenue and the Burley Griffin Legacy projects.

RECOMMENDATION 13

4.33 The Committee recommends that the Chief Minister inform the ACT Legislative Assembly on the outcome of his forthcoming representations with the Prime Minister, the Treasurer and the Minister for Finance, in relation to the Territory's strong desire for the Commonwealth to take a significant public position in relation to the Centenary Celebrations.

RECOMMENDATION 14

4.34 The Committee recommends that the Chief Minister's Department should expedite the broader release of the Centenary of Canberra program as a matter of urgency.

RECOMMENDATION 15

4.38 The Committee recommends that the Chief Minister give consideration to public disclosure of the Cabinet agenda and inform the ACT Legislative Assembly on the outcome of his consideration.

RECOMMENDATION 16

4.54 The Committee recommends that the Chief Minister's Department, in conjunction with the ACT Work Safety Council, review the effectiveness of the service provided by UnionsACT for the work safety liaison and education program in the occupational health and safety space.

RECOMMENDATION 17

4.70 The Committee recommends that the Default Insurance Fund include comparative figures for the previous reporting periods in its annual report tables.

RECOMMENDATION 18

4.72 The Committee recommends that ACT Government agencies ensure that performance reporting in their respective annual reports is complete and informative. This should include, where appropriate, trend data (for example, multi-year comparative tables and/or graphics ideally over the last three years) and a discussion and analysis of changes over time.

RECOMMENDATION 19

4.81 The Committee recommends that ACT Treasury give urgent attention to: (i) resolving the long standing issue of the transfer of long service leave entitlements, including cash entitlements, for the affected officer of the Long Service Leave Authority; and (ii) determine a policy for the transfer of long service leave entitlements, including cash entitlements, for all small ACT Government agencies.

RECOMMENDATION 20

4.88 The Committee recommends that the Legislative Assembly Secretariat, in conjunction with the respective Select Committee on Estimates, review the effectiveness of the assistance provided by the consultant adviser to the Select Committee on Estimates as an ongoing practice from 2010–11.

RECOMMENDATION 21

4.94 The Committee recommends that the Legislative Assembly Secretariat when preparing and negotiating its next contract renewal with InTACT should negotiate the contract to obtain more preferable terms, in particular areas, such as internet speed.

RECOMMENDATION 22

4.95 The Committee recommends that the Legislative Assembly Secretariat review the option of outsourcing its ICT needs to another external provider if there are ongoing significant issues with internet speed and other ICT services following the upgrade of the platform to Windows 7 and the PC refresh.

RECOMMENDATION 23

4.116 The Committee recommends that the *Chief Minister's Annual Report Directions* be amended to require authorities with a governing or advisory board to disclose when board members are appointed/reappointed and the period of appointment/reappointment.

RECOMMENDATION 24

4.130 The Committee recommends that Australian Capital Tourism incorporate graphs into future annual reports, where appropriate, to provide a pictorial representation of seasonality and trends in terms of website visits.

RECOMMENDATION 25

4.139 The Committee recommends that Exhibition Park Corporation (EPC) include in future annual reports an explanation with regard to its relationship with the Department of Territory and Municipal Services (TAMS). This should include specific reference to reporting and accountability pathways and staff administration.

RECOMMENDATION 26

4.147 The Committee recommends that the ACT Government determine the coverage for the promotion of the Community Insurance Scheme and arrange for the Scheme to be promoted to any key community organisations that may have been excluded from the first promotion round.

RECOMMENDATION 27

4.157 The Committee recommends that the Department of Treasury review the first year of operation of the Mortgage Relief Fund to determine the effectiveness of the Fund with particular reference to the appropriateness of the eligibility criteria.

RECOMMENDATION 28

4.173 The Committee recommends that the Department of Environment, Climate Change, Energy and Water conduct a cost-benefit analysis of the proposed Lower Molonglo to Belconnen recycled water pipeline.

RECOMMENDATION 29

4.179 The Committee recommends that the Treasurer inform the ACT Legislative Assembly on the outcome of the Department of Treasury's review of ACTEW Corporation Limited's dividend policy.

RECOMMENDATION 30

4.184 The Committee recommends that the ACT Government consider the cost benefit to the Territory of continuing to pursue the recovery of Rhodium Asset Solutions Limited outstanding debts.

RECOMMENDATION 31

4.186 The Committee recommends that the Treasurer inform the ACT Legislative Assembly in twelve months time on progress of winding up Rhodium Asset Solutions Limited, in accordance with the *Corporations Act 2001*, by the end of the 2010–11 financial year.

RECOMMENDATION 32

4.197 The Committee recommends that the Treasurer inform the ACT Legislative Assembly in six months time on progress of winding up Totalcare Industries Limited, in accordance with the *Corporations Act 2001*, by the end of the 2010–11 financial year.

RECOMMENDATION 33

4.199 The Committee recommends that the Department of Treasury, in conjunction with representatives from Totalcare Industries Limited and Rhodium Asset Solutions Limited, examine and evaluate the practices employed by each of the companies in winding up their respective affairs with a view to identifying and assessing good practice, and areas where improvements could be made. This information should be presented in a format for future reference and be publicly available.

RECOMMENDATION 34

4.200 The Committee recommends that the ACT Government, in any future wind-up of a Territory-owned Corporation, should consider the benefits to the Territory of pursuing the residual issue of recovery of outstanding debts.

1 INTRODUCTION

1.1 On 23 September 2010, the annual and financial reports of all government agencies were referred to relevant standing committees of the Legislative Assembly for the ACT.[3]

1.2 The below listed annual and financial reports for the 2009–10 financial year were referred to the Standing Committee on Public Accounts:

- ACT Auditor-General
- ACT Government Procurement Board
- ACT Gambling and Racing Commission
- ACT Insurance Authority (ACTIA)
- ACT Legislative Assembly Secretariat
- ACT Long Service Leave Authority
- ACTEW Corporation Limited
- ACTTAB Limited
- Chief Minister's Department[4]
- Commissioner for Public Administration
- Department of Territory and Municipal Services[5]
- Department of Treasury
- Exhibition Park Corporation (EPC)
- Rhodium Asset Solutions Limited
- Totalcare Industries Limited

---

[3] ACT Legislative Assembly, Minutes of Proceedings No. 77, 23 September 2010, pp. 906–909.

[4] Those sections of the Chief Minister's Department Annual Report concerning ACT Executive (refer CMD outputs 1.1, 1.2 and 1.4); Business and Economic Development (refer CMD output 2.1); Default Insurance Fund and Work Safety Council (also refer CMD output 1.3 industrial relations policy); and tourism policy and services (including Australian Capital Tourism).

[5] Those sections of the Department of Territory and Municipal Services Annual Report concerning Shared Services and the Director of Territory Records.

Conduct of inquiry

1.3 The Committee held public hearings on: 4, 9, 25 and 30 November; and 15 December 2010 and heard from Ministers, and accompanying departmental and agency officers, and members of governing boards. Witnesses who appeared before the Committee are listed at **Appendix B**.

1.4 The Committee met on 8 April 2011 to discuss the Chair's draft report, which was adopted on 8 April 2011.

Acknowledgments

1.5 The Committee thanks relevant ACT Government Ministers and accompanying departmental and agency officers, and members of governing boards, for providing their time and expertise as witnesses at its annual reports hearings.

1.6 The Committee also acknowledges the contribution of departmental and agency officers who provided supplementary information to the Committee which assisted its understanding of the many issues being considered.

1.7 The Committee sought clarification on a number of issues at public hearings, some of which are expanded upon in the next chapters. The full transcript of public hearings is available on the Assembly website at: http://www.hansard.act.gov.au/hansard/2009/comms/default.htm.

2 PURPOSE AND INTENT OF ANNUAL REPORTS

2.1 Accountability of the Executive to the Legislative Assembly (and to the public) is a key principle of responsible government. For that to be achieved executive agencies must be fully committed to both accountability and disclosure of information in a straightforward way that is meaningful and can be easily understood without financial or accounting training.

2.2 The provision of meaningful operational and financial information by government to Parliament and the public is a fundamental component of the accountability process.[6]

2.3 Annual reports are the principal and most authoritative way in which chief executives and chairpersons account to the Legislative Assembly and other stakeholders, including the public, for the ways in which they have discharged their statutory and other responsibilities and utilised public funds over the preceding twelve months.[7]

2.4 As key accountability documents, annual reports are:

- the principal way in which agencies account for management performance through Ministers to the Legislative Assembly and the wider community
- tabled in the Assembly and form a key part of the historical record of government and public administration decisions, actions and outcomes
- a source of information and reference about the performance of agencies and service providers for other stakeholders, educational and research institutions, the media and the public, and
- key reference documents and documents for internal management.[8]

---

[6] Public Accounts Committee, Legislative Assembly of Queensland, December 2001, Report No. 59, *Annual Reporting in the Queensland Public Sector*, p. 1.
[7] Auditor-General's Report No. 1 of 2003: *Effectiveness of Annual Reporting*, p. 1.
[8] *Chief Minister's Annual Report Directions 2007-10*, p. 3.

2.5 The Committee notes that annual reports co-exist with other annual whole-of-government reporting to present an aggregated view of the performance of the ACT public sector as a whole.[9]

Reporting framework

2.6 Annual and financial reports are prepared by all reporting entities in accordance with the:

- *Chief Minister's Annual Report Directions 2007-10*
- *Annual Reports (Government Agencies) Act 2004*
- *Financial Management Act 1996*
- *Territory-owned Corporations Act 1990,* and
- reporting obligations (where appropriate) specific to a Territory-owned Corporation, or public authority, as required by enabling or other applicable legislation.

2.7 The Chief Minister told the Legislative Assembly:

> The government seeks to ensure that the directions and the acts are continually updated to reflect best practice and full accountability in accordance with government policy.[10]

Annual Reports (Government Agencies) Act 2004

2.8 The *Annual Reports (Government Agencies) Act 2004* (the Act) sets the framework for annual reporting across the ACT public sector. This framework identifies which public bodies provide annual reports and outlines the timeframe for provision of reports.[11]

---

[9] *Chief Minister's Annual Report Directions 2007-10*, p. 5.
[10] ACT Legislative Assembly, Week 9 Hansard, 21 September 2006, p. 3055.
[11] *Annual Reports (Government Agencies) Act 2004*.

Chief Minister's Annual Report Directions 2007-2010

2.9 The *Chief Minister's Annual Report Directions 2007-10* (the Directions)[12], which are issued under the Act[13]:

> ...apply consistent public accountability and statutory reporting requirements across the public sector. The Directions apply to all administrative units and those government agencies identified as public authorities.[14]

2.10 The Committee plays a consultative role in the process.[15] Under the *Annual Reports (Government Agencies) Act 2004*, before the responsible Minister can issue an annual report direction, the Minister must consult the Public Accounts Committee (section 8). The Committee may make a recommendation to the Minister about any proposed direction.

2.11 The Directions prescribe a framework for annual reports that seeks to apply consistency in public accountability and statutory reporting requirements across the public sector.[16]

2.12 The ACT Audit Office audits the annual reports of all reporting entities for compliance with the Directions.[17]

2.13 In 2007, the Government streamlined the annual reporting requirement through the adoption of Directions with a currency applicable to three reporting periods (the Chief Minister's Annual Report Directions 2007–10).[18] Subsequent to this, in accordance with the Act, the Committee was consulted in 2009 and 2010 with regard to proposed technical amendments to be applied to the 2008–09 and 2009–10 reporting periods respectively.

---

[12] Tabled in the Legislative Assembly on 26 June 2008, accessible at: http://www.cmd.act.gov.au/__data/assets/pdf_file/0003/2793/annual_report_directions07-10.pdf

[13] Part 2, Section 9, *Annual Reports (Government Agencies) Act 2004*

[14] *Chief Minister's Annual Report Directions 2007–10*, p. 3.

[15] Part 2, Section 8, *Annual Reports (Government Agencies) Act 2004*

[16] Legislative Assembly for the ACT, Response to Question on Notice No. 64 to the ACT Auditor-General, Standing Committee on Public Accounts, Inquiry into Annual and Financial Reports 2004-05, QON PAC 64.

[17] *Chief Minister's Annual Report Directions 2007–10*, p. 11.

[18] Chief Minister's Department, *Annual Report 2007–08*, p. 29; *Chief Minister's Annual Report Directions 2007–10*, p. 4.

2.14 Pursuant to section 8 of the Act, the Committee looks forward to considering the proposed Directions for 2011–14 in due course.

Financial Management Act 1996 (the FMA Act)

2.15 The FMA Act provides for the financial management of the Government of the Territory, for the scrutiny of that management by the ACT Legislative Assembly, and specifies financial reporting requirements for the Government of the Territory.[19]

2.16 The FMA Act requires departments and public authorities with financial reporting obligations under the FMA Act to include audited financial and performance statements in their annual reports.[20]

Territory-owned Corporations Act 1990 (the ToC Act)

2.17 The ToC Act provides for the establishment of government enterprises as Territory-owned Corporations. The financial reporting obligations required of Territory-owned Corporations under the ToC Act are similar to those specified under the FMA.[21]

Compliance with Annual Report Directions

2.18 The Committee found that, overall, annual reports generally complied with the Directions.[22] The Committee, however, notes the following areas for improvement.

Ecologically sustainable development (ESD)

2.19 The Directions require agencies to report on ESD. The statutory basis for this requirement is drawn from Section 158A of the *Environment Protection Act 1997* and is further supported by requirements of the ACT's climate change strategy, *Weathering the Change*.

---

[19] *Financial Management Act 1996*

[20] *Financial Management Act 1996; Chief Minister's Annual Report Directions 2007–10*, p. 3.

[21] *Territory-owned Corporations Act 1990*; *Chief Minister's Annual Report Directions 2007–10*, p. 3.

[22] Compliance with the Directions is compulsory for all reporting entities. However, not all requirements are relevant or applicable to all entities given the nature of their operations (*Chief Minister's Annual Report Directions 2007–10*, p. 5).

2.20 To assist agencies to meet this statutory reporting requirement, the Directions provide guidance on how ESD principles can be readily translated to an agency context.[23] This includes reporting on the following:

- how agency actions and administration of legislation accords with the principles of ESD
- the contribution of agency outputs to ESD
- the effects of agency outputs on ESD
- identification of any measures taken to minimise the impacts of these effects, and
- description of mechanisms used for reviewing and increasing the effectiveness of these measures.[24]

2.21 The Directions require agencies, as part of their direct operations, to report on their resource use, including transport, energy use, greenhouse emissions, water consumption and resource efficiency and waste use.[25]

2.22 The Committee notes that a recent performance audit[26] by the Auditor-General reviewing performance reporting by selected agencies, in the main for the 2008–09 reporting period, amongst other things, considered the completeness of reporting on ESD[27] by assessing whether the contents of selected annual reports complied with the ESD requirements as specified in the Directions.

2.23 In terms of completeness of reporting, the Auditor-General found that:

> No department provided all the required information. Although Audit assessed the data as providing useful information on ESD, in no case did it fully meet the Directions' disclosure requirement. For example, many agencies did not report on the use of recycle papers as required.[28]

---

[23] *Chief Minister's Annual Report Directions 2007–10*, p. 38.
[24] *Ibid.*
[25] *Ibid.*
[26] ACT Auditor-General's Report No. 1 of 10: *Performance reporting*.
[27] Audit only considered whether the information was provided not the accuracy of the information (ACT Auditor-General's Report No. 1 of 10: *Performance reporting*, p. 43).
[28] ACT Auditor-General's Report No. 1 of 10: *Performance reporting*, p. 44.

2.24 The Committee notes that some aspects of the requirements for reporting on ESD, as specified in the Directions, have changed over the last three reporting periods. A summary is set out in the table below.

Table 2.1—Summary of requirements for reporting on ESD as specified in the Directions (2007–08; 2008–09; and 2009–10)

Reporting period	2007–08[29]	2008–09[30]	2009–10[31]
No. of ESD reporting indicators	21	29	29
Table providing agencies with the preferred format for presenting information with regard to indicators	N/A—No table was provided.	Table required the provision of 45 data elements	Table required the provision of 41 data elements

2.25 The Committee appreciates that reporting on ESD is a complex process and that over the last three reporting periods, agencies have provided useful information on their respective resource use. However, the Committee notes that the complexity of reporting is compounded when some aspects of the requirements change, for example, between reporting periods. Further, this can also make it difficult to make comparisons from one year to the next.

2.26 The Committee acknowledges improvements in ESD reporting for 2009–10[32], as compared with 2008–09. The Committee notes the challenges faced by some agencies, attributable to operational circumstances, with regard to the achievement of sustainability improvements and ESD reporting.[33]

2.27 The Committee also notes that each of the ESD indicators does not specify a target for agencies to work towards. The Committee believes that achievable targets over a set timeframe should be provided for the indicators. This will assist agencies to use the indicators in decision making processes along with encouraging and assessing improvement towards desired targets.

---

29 Annual Reports (Government Agencies) Notice 2008 (No 1), 23 June 2008, (repealed).
30 Annual Reports (Government Agencies) Notice 2009 (No 1), 18 June 2009, (repealed).
31 Annual Reports (Government Agencies) Notice 2010 (No 1), 21 June 2010.
32 Department of Treasury; ACT Legislative Assembly.
33 For example, ACTTAB Ltd., non-standard hours of operation and operation of night venues (*Transcript of evidence*, 15 December 2010, p. 226).

2.28 In evidence, the Auditor-General commented:

> One point about ESD reporting is the lack of targets. Basically, there are a number of indicators to report, but there are no targets to be able to assess whether or not we are doing the right things in terms of energy consumption or recycled material or papers. Because there is no target given, it is very difficult to assess whether or not agencies perform well and achieve that for all government agencies.[34]

RECOMMENDATION 1

2.29 **The Committee recommends that the requirements for reporting on ecologically sustainable development (ESD), as specified in the *Chief Minister's Annual Report Directions*, should be expressed with an achievable target over a set timeframe.**

2.30 The Committee emphasises the importance of thorough reporting against the specified ESD indicators as they provide a useful framework for processing the required information, facilitate comparison with other ACT Public Service (ACTPS) agencies, and can assist individual agencies to track agency specific ESD targets.

RECOMMENDATION 2

2.31 **The Committee recommends that, as a minimum, ACT Government agencies' annual reports include thorough reporting on ecologically sustainable development (ESD) that fully adheres to the *Chief Minister's Annual Report Directions 2007–10*.**

2.32 The Committee notes that the usefulness of consistent reporting against the specified ESD indicators can be enhanced through agencies determining or providing a context for their ESD reporting. The Committee also notes that specification of achievable targets would assist in providing a context for ESD reporting.

---

[34] Mrs Tu Pham, *Transcript of evidence*, 30 November 2010, p. 164.

RECOMMENDATION 3

2.33 **The Committee recommends that ACT Government agencies should always present a context to their ecologically sustainable development (ESD) reporting by providing additional comparative information such as ESD outcomes from previous years, other agencies, and/or other jurisdictions.**

Timeliness of access—electronic versions of annual report

2.34 The Directions require agencies to place their annual reports on the relevant internet site on the same day that their annual reports are tabled in the Legislative Assembly. The ACT Audit Office monitors compliance with this timing requirement.[35]

2.35 The Committee notes the Auditor-General's finding that in 2009–10:

> ...all agencies placed their annual reports on the relevant website by the date required by the Chief Minister's Annual Report Directions.[36]

2.36 The Committee notes that agencies' compliance with this requirement in 2009–10 (100% complied) compares with 2008–09 (89% complied); 2007-08 (77% complied); and 2006-07 (76% complied).[37]

Consistency between web and printed versions

2.37 Reliability of reporting requires agencies to ensure that the printed and electronic version of their respective audited financial report and statement of performance included in their annual report and placed on the website, is consistent with the original version on which the audit report and report of factual findings was issued.[38]

2.38 The Committee notes a continued improvement in the reliability of reporting. Incorrect versions of the financial report and/or statement of performance, between website and printed versions of annual reports, has

---

[35] *Chief Minister's Annual Report Directions 2007–10*, p. 8.
[36] ACT Auditor-General's Report No. 10 of 10: *2009–10 Financial Audits*, p. 26.
[37] ACT Auditor-General's Report No. 10 of 10: *2009–10 Financial Audits*, p. 26; ACT Auditor-General's Report No. 8 of 09: *2008–09 Financial Audits*, p. 24; ACT Auditor-General's Report No. 8 of 08: *2007–08 Financial Audits*, p. 27; ACT Auditor-General's Report No. 8 of 07: *2006–07 Financial Audits, p. 21;* ACT Auditor-General's Report No. 8 of 06: *2005–06 Financial Audits*, p. 17.
[38] ACT Auditor-General's Report No. 8 of 08: *2007–08 Financial Audits*, p. 27.

fallen from 69% in 2005–06 to 36% in 2006-07; two instances in 2007–08; one instance in 2008–09; and nil instances in 2009–10.[39]

2.39 The Committee notes the Auditor-General's finding that in 2009–10:

> All agencies included the correct versions of their financial statements and statement of performance in the printed and electronic (website) version of their annual reports.[40]

2.40 This enhancement in the reliability of reporting appears to be indicative of a strengthening of agencies' processes for ensuring the correct versions of financial reports and statements of performance are included in both the electronic and printed versions of their annual reports.

Timeliness of financial reporting processes

2.41 The Department of Treasury issues a whole-of-government reporting timetable for financial reporting. According to the Auditor-General, agencies need to comply with this timetable to ensure that:

- they comply with applicable legislative annual reporting deadlines; and
- the Territory's financial statements are completed and audited within the timeframe required by the *Financial Management Act 1996*.[41]

2.42 In considering Auditor-General's Report on 2009-10 Financial Audits, the Committee notes the Auditor-General's finding that consistent with the trend of recent years, agency compliance with the financial reporting timetable continued to improve in 2009–10.[42] Only two agencies did not comply with the reporting timetable in 2009–10.[43]

2.43 While noting the continued improvement in compliance with the reporting timetable, the Committee emphasises the importance of continued vigilance by all agencies to ensure this high level of compliance is sustained. The Committee notes the Auditor-General's observation that non-compliance results when an agency has not planned, designed, and

---

[39] ACT Auditor-General's Report No. 10 of 10: *2009–10 Financial Audits*, p. 26; ACT Auditor-General's Report No. 8 of 09: *2008–09 Financial Audits*, p. 23; ACT Auditor-General's Report No. 8 of 08: *2007–08 Financial Audits*, p. 27; ACT Auditor-General's Report No. 8 of 07: *2006–07 Financial Audits, p. 22.*

[40] ACT Auditor-General's Report No. 10 of 10: *2009–10: Financial Audits*, p. 26.

[41] *Ibid.*, p. 23.

[42] *Ibid.*

[43] *Ibid.*, p. 24.

adequately resourced their reporting functions. Non-compliance can thus result in a higher risk of delay in completion of agencies' annual reports and consequently the Territory's financial report.[44]

Quality of statements of performance

2.44 Pursuant to the FMA Act, departments and authorities are required to prepare statements of performance that set out their results against planned performance targets.

2.45 In considering Auditor-General's Report on 2009–10 Financial Audits, the Committee notes the Auditor-General's finding that the quality of statements of performance improved in 2009–10. The percentage of statements rated by the Auditor-General as 'good' or 'satisfactory' in 2009–10 (74 per cent) compared favourably with 2008–09 (64 per cent).[45]

2.46 Further, in 2009–10 the percentage of statements rated as 'unsatisfactory' fell significantly from 18 per cent in 2008–09 to 7 per cent in 2009–10.[46]

2.47 While noting the continued improvement with regard to the quality of statements of performance, the Committee emphasises the importance of continued vigilance by all agencies to ensure this quality is sustained. Further, notwithstanding the improvement in the proportion of statements rated as 'good' or 'satisfactory', the Audit Office rated 26 per cent of the statements as 'fair' (19 per cent) or 'unsatisfactory' (7 per cent).[47]

2.48 The Committee is therefore of the view that there is still scope for improvement by some agencies. The Committee emphasises that statements of performance contain significant information on the non-financial aspects of an agency's performance.[48]

---

[44] ACT Auditor-General's Report No. 8 of 2008: *2007–08 Financial Audits*, p. 24.
[45] *Ibid.*
[46] *Ibid.*
[47] *Ibid.*
[48] *Ibid.*

RECOMMENDATION 4

2.49 **The Committee recommends that ACT Government agencies ensure the provision of complete statements of performance and full disclosure as required by the *Financial Management Act 1996*.**

Usefulness of performance measures

2.50 The FMA Act requires an agency's annual statement of performance to compare the performance of the agency in delivering its outputs to its planned performance by reference to the performance indicator targets included in the agency's budget (departments) or statement of intent (authorities).[49]

2.51 The effectiveness of this reporting framework, that is, the usefulness of the statement of performance, is to a large extent dependent upon the quality of the performance indicators.[50] Further, the Auditor-General has commented:

> Where planned levels of performance are not clearly defined or explained in agencies' budget papers or statements of intent, it is less likely that agencies can be held to account for their performance.[51]

2.52 As performance measures are determined through the budget process, the ACT Audit Office does not provide an opinion on the relevance or appropriateness of the targets. However, for the 2009–10 reporting period, the Office found:

> ... (as in previous years), there were several instances where the performance indicators being reported provided little meaningful information about the planned and actual performance of agencies. For example, some performance indicators only referred to the conduct of an activity, with no explanation of what that activity means or how well it was to be performed.[52]

2.53 The Committee is aware that agencies are required to develop and report on two types of performance indicators or measures—strategic and accountability. With regard to reporting requirements:

---

[49] ACT Auditor-General's Report No. 8 of 08: *2007–08 Financial Audits*, p. 25.
[50] *Ibid.*
[51] *Ibid.*
[52] *Ibid.*

> Government agencies report on performance indicators and their targets. Accountability performance indicators are included in the annual Statements of Performance. These are provided with the financial statements for both departments and statutory authorities and are subject to review by the Auditor-General's Office, as part of the annual audits of financial statements. Strategic performance indicators, if defined, are reported in agencies' Annual Reports.[53]

2.54 The Committee notes in relation to the history of performance reporting, that:

- from November 2005—strategic performance measures were no longer subject to audit scrutiny, to some extent because these measures are concerned with long term goals and outcomes that may not always be 'auditable'
- in 2007–08 strategic performance measures were removed from the Statement of Performance, however, reporting on these measures remains a requirement within annual reports, and
- since 2004–05, the number of accountability measures has declined substantially. However, some departments still have large numbers of these measures.[54]

2.55 The development of relevant and useful performance measures, and subsequent reporting on the achievement of these measures by agencies in their respective annual statement of performance and annual report, are critical elements of an effective performance measurement and reporting system. Such a system ensures that agencies are accountable for their performance to the Legislative Assembly and the community. Further, it provides opportunities for agencies to improve performance.

2.56 The Committee notes the Auditor-General's finding that:

> The relevance and usefulness of agencies' performance measures vary significantly between agencies. In some agencies, many performance measures were still unclear, unhelpful, or were not well aligned to strategic or operational objectives. In particular, a number of strategic indicators were merely descriptions of activities or strategies rather than outcome-based and long-term focused.[55]

---

53 ACT Auditor-General's Report No. 1 of 10: *Performance reporting*, p. 12.

54 *Ibid*., p. 11.

55 ACT Auditor-General, Media release: 'Performance Audit Report—Performance reporting', 13 April 2010, p. 1.

2.57 The Committee is inquiring into Auditor-General's Report No. 1 of 2010: *Performance reporting* and will consider matters relating to performance measures in more detail as part of that inquiry.

Previously mentioned commitments

2.1 The Committee is of the view that where agencies undertake to conduct activities in one annual report, they should address these activities in the subsequent annual report. Where previously mentioned commitments are not reported:

> ...there is a risk that non-completion of such undertakings will go unnoticed. This approach would enhance accountability to the Legislative Assembly.[56]

2.2 Notwithstanding that there may be plausible explanations for why an issue is not addressed in the subsequent year, for example, such as a different view from the agency or the Government on the significance of the issues in the following year, it should be reported on in the subsequent annual report.

2.3 The Committee found on a number of occasions, examples of previous commitments or matters not being addressed in subsequent annual reports. For example, the Committee sought confirmation that an ongoing issue, over multiple reporting periods, with regard to the transfer of payment for long service leave (LSL) entitlements, had been resolved. The Committee noted that comment on the matter had not been reported on in the ACT Long Service Leave Authority's annual report and queried whether this signalled that the matter had been resolved. The Treasurer advised that it had not.[57] The Director of the Office of Industrial Relations added:

> This is a matter that is being handled by Treasury. I am conscious that they have already had their hearing; so I will give you the flavour of what they have told me in terms of the problem. I suppose that the way Treasury constructs their financial framework is that they try to make it as consistent across agencies as possible. Because of changes to cash management principles, if you have an employee whose leave balance transfers, the cash does not go with them. That is not how it happens.

---

[56] ACT Auditor-General's Report No. 1 of 10: *Performance reporting*, p. 42.
[57] Ms Katy Gallagher MLA, *Transcript of evidence*, 9 November 2010, p. 92.

> That even happens actually for transfers in and out of the commonwealth. You get an employee's entitlement but there is no cash behind it. That is a very big issue for the Long Service Leave Authority because they are such a small agency. If they have somebody who has lots of long service leave and lots of annual leave going out or coming in, they will have to cover that cost.
>
> The swings and roundabouts of having a very large organisation is not much of a reassurance. I suppose that the problem with the Long Service Leave Authority is symptomatic of quite a large issue. What would have to happen is that in each individual case—the Long Service Leave Authority would not be alone—you would have to consider whether there is enough reason to depart from your very set framework and your very set cash management principles to make it like that.
>
> If the Long Service Leave Authority has that type of arrangement, there will be lots of other authorities that will be in that position. As an issue of fairness, they will have to be addressed too. It seems very simple on the face of it but it is actually quite a large problem to have to address because it just keeps adding up.[58]

2.4 The Registrar of the Authority stated:

> That was my decision. It was an issue that I raised in the previous annual report. I am certainly aware of the issues associated with trying to resolve it. I was not trying to hide it. I just did not feel the need to repeat it in this year's annual report.[59]

RECOMMENDATION 5

2.5 **The Committee recommends that ACT Government agencies should report in subsequent years on the outcomes of significant activities for which undertakings were made in the previous annual report.**

2.6 The Committee has made comment on the specific matter of resolution of the transfer of payment for LSL entitlements at chapter four.

---

[58] Ms Liesl Centenera, *Transcript of evidence*, 9 November 2010, pp. 92–93.
[59] Mr Phil Collins, *Transcript of evidence*, 9 November 2010, p. 93.

3 WHOLE-OF-GOVERNMENT ISSUES ARISING FROM DEPARTMENT AND AGENCY REPORTS

3.1 During discussions over the course of its public hearing program, the Committee sought clarification on a number of whole-of-government issues arising from specific annual reports.

ACT Executive

3.2 The Committee sought explanations concerning a number of expenditure categories relevant to the ACT Executive. A summary is set out below.

3.3 As noted in the statement of income and expenses, the Committee sought an explanation for the variance between the annual budget for the Executive of $6.2 million and its actual expenditure of $5.5 million.[60] The Chief Minister advised:

> I do not think there is a reason so much more than some staffing positions were not filled. I think it is as simple as that.
>
> ...
>
> I think some of them are in the process of being filled. The precise numbers that were provided for and the precise numbers filled is something that I can provide detail to you on but it is simply a question of some positions that were not filled.[61]

3.4 The Committee was interested to know which Executive offices were affected and the Chief Minister indicated that the vacancies were across the Executive:

> I think across the executive. I know there were positions in my office that were not filled and I think it is probably the case that across ministerial offices there were positions that were not filled across the entire—[62]

---

[60] *Transcript of evidence*, 25 November 2010, p. 98.
[61] Mr Jon Stanhope MLA, *Transcript of evidence*, 25 November 2010, p. 98.
[62] *Ibid.*

3.5 Under the 'Supplies and Services' category, the Committee sought an explanation for why expenditure on hospitality had increased by approximately 71 per cent compared with the previous reporting period.[63] The Committee was told that:

> There are two categories of Hospitality. One is the Chief Minister's Civic Hospitality account that is for functions relating to the Chief Minister's role as Head of Government.
>
> Each Minister is also allocated an amount of money to cover official hospitality for visitors or persons in connection with their respective portfolios.
>
> The increase for 2009-10 relates to the Civic Hospitality account, and was mainly due to the State Funeral for Mr Jim Pead.[64]

3.6 Under the 'Office Supplies' category, the Committee sought an explanation for why expenditure on office supplies had increased from $36 000 to $68 000, an increase of approximately 90 per cent compared with the previous reporting period.[65] The Chief Minister advised that the increase was due to the inclusion of amounts for subscriptions and newspapers in the category for 2009–10, whereas in 2008–09, these amounts were included under the 'Subscriptions, Publications and Memberships' category.[66]

3.7 The Committee highlights the importance of consistent reporting. Consistent reporting whilst permitting expenditure to be compared from one year to the next also avoids any conclusion that the expenditure is being selectively reported. Where changes to reporting are necessary they should be clearly explained including the reasons why the change has occurred and, where possible, provide data for the original and replacement measure for the changeover year.[67]

---

[63] *Transcript of evidence*, 25 November 2010, pp. 98–99.

[64] Mr Jon Stanhope MLA, *Transcript of evidence*, 25 November 2010, pp. 98–99; Mr Jon Stanhope, Response to QToN (No. 2), 25 November 2010.

[65] *Transcript of evidence*, 25 November 2010, p. 99.

[66] Mr Jon Stanhope MLA, *Transcript of evidence*, 25 November 2010, p. 98; Mr Jon Stanhope, Response to QToN (No. 3), 25 November 2010.

[67] NSW Audit Office (2000) Better Practice Guide—*Reporting Performance: A guide to preparing performance information for annual reports*, November, pp. 12–13.

RECOMMENDATION 6

3.8 **The Committee recommends that ACT Government agencies should report performance information consistently from one reporting period to the next. Where changes are necessary overtime, agencies should: (i) ensure that the change is clearly described; (ii) explain the reasons for why the change has occurred; and (iii) where possible, provide data for both the original and replacement measure for the changeover year.**

3.9 The Committee was interested to know what was included in the category referred to as 'Professional Services'. The Chief Minister informed the Committee that the:

> ACT Executive Professional Services comprises Audit Fees and Resources Provided Free of Charge comprising Accounting Services from the Chief Minister's Department, Building Maintenance Services from the Legislative Assembly and Legal Services from the Department of Justice and Community Safety.[68]

3.10 Under the 'Travel' category, the Committee sought an explanation for the rise in expenditure from $147 000 to $251 000, an increase of almost 70 per cent compared with the previous reporting period.[69] The Chief Minister advised that, in the main, this was due to an increase in overseas travel in 2009–10 against a low base of international travel in 2008–09.[70] The Chief Minister stated:

> Other than attendance at one Ministerial Council meeting in New Zealand, there was no overseas travel undertaken by Ministers in 2008-09.
>
> In 2009-10 there were three overseas travel delegations.[71]

EREC Review of government initiatives

3.11 The Expenditure Review and Evaluation Committee (EREC) commenced a review of government initiatives in late June 2010. The Committee was interested to know whether the Review had reported and, if not, when it

---

68 Mr Jon Stanhope MLA, *Transcript of evidence*, 25 November 2010, p. 98; Mr Jon Stanhope, Response to QToN (No. 5), 25 November 2010.

69 *Transcript of evidence*, 25 November 2010, p. 99.

70 Mr Jon Stanhope MLA, *Transcript of evidence*, 25 November 2010, p. 99.

71 Mr Jon Stanhope, Response to QToN (No. 4), 25 November 2010.

was expected to report. The Minister for Territory and Municipal Services told the Committee:

> The Expenditure Review and Evaluation Committee's review of previous budget initiatives, and indeed all of its work, is for advice to Cabinet. The findings of the review will remain Cabinet-in-Confidence.
>
> Ministers are kept informed through the Committee's engagement with the Chief Executives, as well as the normal Cabinet process. The report on the review of previous budget initiatives is yet to be considered.[72]

3.12 The Committee notes that, in the main, ERECs are tasked with considering matters of detail regarding expenditure and revenue during and between a jurisdiction's annual budgets. This can include examination of whether major new policies should be adopted and saving proposals, together with recommendations to Cabinet on the proposals for inclusion in the Budget.

3.13 The Committee understands that during 2010–11, the Department of Treasury will undertake a post implementation program/initiative evaluation through the EREC 'to provide advice to the Budget Committee of Cabinet on whether the desired objectives are being met and options to improve the efficiency and effectiveness of the existing public expenditure'.[73]

RECOMMENDATION 7

3.14 **The Committee recommends that the Treasurer inform the ACT Legislative Assembly on the outcome of the Department of Treasury's post implementation program/initiative evaluations through the Expenditure Review and Evaluation Committee (EREC).**

Enterprise agreement negotiations

3.15 At a number of times throughout its inquiry, the Committee sought information on various aspects of the Enterprise Agreement negotiations,

---

[72] Mr Jon Stanhope, Response to QToN (No. 26), 25 November 2010.
[73] ACT Department of Treasury (2010) *2009–10 Annual Report*, p. 14.

in particular the costs incurred for bargaining rounds and whether negotiations were progressed consistently across all agencies.

3.16 The Committee inquired as to the costs incurred for a bargaining round, including staff and negotiator time, both from the Chief Minister's Department (CMD) and other agencies, and whether these costs were factored into wage offers. The Chief Minister advised:

> Each bargaining round is different and therefore estimations of staff time spent on the preparations for bargaining and in actual negotiations are not factored into wage offers.
>
> Consultancy support totalled $211, 095 for the 2010 round of enterprise bargaining. The bargaining round was different from previous rounds as it required significant work and independent advice on the implications of the introduction of the *Fair Work Act 2009*.[74]

3.17 In relation to costs incurred by the Government for 2010 enterprise agreement negotiations, the Minister for Industrial Relations advised:

> In addition to staff time, a total of $211,095 was spent by the Chief Minister's Department on consultancy support as part of the 2010 general clerical enterprise agreement negotiations.
>
> This support assisted amongst other things in the interpretation of new bargaining requirements under the *Fair Work Act 2009*, the substantial redrafting of agreement clauses to provide greater clarity and stronger alignment with other elements of the employment framework as well as the analysis of claims from union and non-union bargaining representatives.[75]

3.18 In relation to the rate of progression across agencies for the 2010 round of bargaining, the Committee understands that as of 11 December 2010 there were still some agencies where officers were yet to receive payments for wage negotiations as part of the 2010 enterprise agreement. The *Canberra Times* reported:

> Thousands of ACT public servants are facing a lean Christmas without hundreds of dollars in bonus payments and back pay promised to them six months ago.

---

[74] Mr Jon Stanhope, Response to Supplementary Question (No. 8), 25 November 2010.
[75] Ms Katy Gallagher MLA, Response to QToN (No. 5), 9 November 2010.

> Health workers, justice staff and CIT employees are among the public servants who will have to wait until January, at the earliest, to get pay rises that should have been paid in July.
>
> The Government is blaming the long wait on the Fair Work Australia process but the public servants' union describes the situation as a "debacle" and says its members were relying on their money for some "Christmas cheer".
>
> The government workers agreed in June to accept a 2.5 per cent pay rise after the Treasurer Katy Gallagher said the cash-strapped Treasury simply could not afford an above inflation deal.
>
> The offer was sweetened with a $650 signing-on bonus to be paid in lieu of back pay from March but now workers in Justice and Community Safety, ACT Health, CIT, the Auditor-General's Office and the other agencies have found they will not be getting their cash until after the expensive holiday period.[76]

3.19 The Committee further notes that the CMD had identified this as an area to address and simplify for the 2011 round of bargaining. The Chief Minister advised:

> The Government is looking to simplify and expedite the bargaining process in 2011. This will require agreement and cooperation of union and non-union bargaining representatives to meet clear and identified work under strict timeframes.[77]

3.20 The Committee acknowledges that negotiations will commence in January 2011 for the new round of agreement making before many public servants will have been paid for the wage negotiations as part of the 2010 enterprise agreement. The Committee stresses that this is not a satisfactory outcome and encourages all stakeholders to ensure that this situation does not occur as part of the 2011 round of bargaining.

RECOMMENDATION 8

3.21 **The Committee recommends that future whole-of-government negotiations on Enterprise Bargaining Agreements be conducted in a manner that provides timely payment of salary increases to ACT Public Service (ACTPS) employees.**

---

[76] Towell, N. (2010) 'ACT public servants want sign-on bonus before holiday sign-off', *Canberra Times*, 11 December 2010, p. 3.

[77] Mr Jon Stanhope, Response to Supplementary Question (No. 8), 25 November 2010.

Efficiency dividend

3.22 The efficiency dividend was one of the saving measures incorporated into the 2010–11 ACT Budget and its out years. The efficiency dividend commences at 1.5 per cent in 2010–11 and will grow at 0.5 per cent over 2011–12 and 2012-13.[78] As ACT Health already has an efficiency dividend built in, it was the only department exempt from the efficiency dividends built in over the next three financial years.[79]

3.23 During questioning the Committee was interested in the Department of Treasury's role with regard to the efficiency dividend plans. The Treasurer advised that the efficiency dividend was a Cabinet decision and that Treasury provides assistance to Cabinet in the form of assessing agency plans to determine if the efficiency dividend is being met. The Department also provides advice to Cabinet on the efficiency percentage target.[80] The Treasurer explained that:

> The government has set the target. Agencies need to go away and work out how best to achieve that. The government have set a general theme of trying to maintain employment and ensure continuity of service as we try to recover our budget, making sure all of the agencies are meeting the dividend.[81]

3.24 The Committee highlights the findings of the Joint Committee on Public Accounts and Audit (JCPAA) inquiry into the Commonwealth Government's efficiency dividend and its impact on small agencies.[82] That inquiry found that small public sector agencies:

> ...face particular challenges in relation to the efficiency dividend. One issue is that smaller agencies are often established to fulfil a specific function or purpose. This limits their capacity to reprioritise or trim discretionary activities. Also, such agencies are occasionally required to absorb new functions. The cost of one additional activity may appear small, but it could represent a large proportion of a small agency's total budget.

---

78 ACT Government (2010), 2010–11 Budget Paper No. 3, pp. 19–23.

79 Select Committee on Estimates 2010–11, *Transcript of evidence*, 14 May 2010, p. 211.

80 Ms Katy Gallagher MLA, *Transcript of evidence,* 4 November 2010, p. 24.

81 Ms Katy Gallagher MLA, *Transcript of evidence,* 4 November 2010, p. 24.

82 Commonwealth Joint Committee on Public Accounts and Audit (JCPAA) (2008) *The efficiency dividend and small agencies: Size does matter*, Report No. 413, December, Parliament of the Commonwealth of Australia, Canberra.

> ... *[are]* often disadvantaged by poorer economies of scale and limited bargaining power. This affects an agency's ability to achieve savings in the procurement of goods and services or the negotiation of rental agreements. All government agencies have reporting obligations, such as publishing annual reports and financial statements. Skilled staff are required to complete these complex tasks. Large agencies might be able to reduce staffing levels in corporate areas, but small agencies might have only one staff member to complete these critical tasks. This gives small agencies fewer options in finding efficiencies.
>
> Achieving efficiencies by decreasing salary costs is problematic as many of these agencies already find it difficult to attract and retain staff.[83]

3.25 The Committee believes, that in any further advice the Department of Treasury may provide to Cabinet with regard to the efficiency percentage target, to the extent that this has not taken place, the findings of the JCPAA's inquiry and any possible relevancy to the ACTPS should be noted.

RECOMMENDATION 9

3.26 **The Committee recommends that the Department of Treasury in preparing its advice to Cabinet on the efficiency dividend percentage target should consider the relevance to ACT Government agencies of the findings of the Joint Committee on Public Accounts and Audit (JCPAA) inquiry into the Commonwealth Government's efficiency dividend and its impact on small agencies.**

Commissioner for Public Administration

Commissioner role and function

3.27 As in previous years, the Committee discussed the merging of the Commissioner's role and function with that of the Deputy Chief Executive of the Governance Division of CMD and its potential to impact on the ability of the Commissioner to carry out their statutory functions as the professional head of the ACT Public Service (ACTPS).[84]

---

[83] Commonwealth Joint Committee on Public Accounts and Audit (JCPAA) (2008) *The efficiency dividend and small agencies: Size does matter*, Report No. 413, December, Parliament of the Commonwealth of Australia, Canberra, p. 6.

[84] *Transcript of evidence*, 25 November 2010, pp. 128–132.

3.28 The Committee sought the views of the Commissioner as to whether there was conflict of interest with the current arrangements. The Commissioner commented:

> As I mentioned last year, the current arrangement replicates the model used between 1995 and 1999 where a senior executive with departmental responsibilities also carried out the role of the commissioner. I do not consider that there is a conflict of interest in terms of the dual role. I need to be mindful, and anyone in this role needs to be mindful, of carefully balancing the respective roles.
>
> I believe that there are some advantages in having that deeper and more immediate understanding of the management of the types of issues that come through the Deputy Chief Executive, Governance, and then having that knowledge in terms of the commissioner's role. But importantly, in terms of the commissioner's role, it is statutorily defined. I am supported in doing that role by people within, particularly, the Public Sector Management Group, but in the broader Governance Division. I do not consider that there are any circumstances where that is a problem.
>
> In terms of whether that issue has been taken on board, my understanding is that the government's response has not agreed to that recommendation. In terms of other things that are happening at the moment, perhaps the Hawke review might look at that issue. I am not sure what the outcomes of that will be. It may be that there will be other views of looking at similar situations where there are dual roles. It is a small jurisdiction. To have independent commissioners full time, all the time, on all the different things that perhaps you think you might want, I really think you need to look at fit for purpose in the ACT.[85]

3.29 The Chief Minister added:

> I should just say that at one level it is unfair, I think, to ask an official whether or not they accept the nature of the administrative arrangements that apply to them. That is not a decision they make. It is a decision I make. I think it has to be understood and respected that Ms Hudson, in her dual roles, is performing them directly as a consequence of decisions which I took, not decisions which she took. Of course, I am more than happy for Ms Hudson to comment on how she believes the arrangement is working. But it is a decision of government which reflects, as Ms Hudson said, the nature of our jurisdiction, the size of our jurisdiction, and our public service.
>
> There are a number of arrangements that one might point to which are also a feature or an incident of the size of this jurisdiction. They are just the nature of

[85] Ms Cathy Hudson, *Transcript of evidence*, 25 November 2010, p. 128.

> the jurisdiction of a city state. For instance, we do not have a specific ombudsman; we rely on the commonwealth. We do not have a commissioner for privacy; we utilise the services of the commonwealth privacy commissioner. The Conservator of Flora and Fauna is in exactly the same position as Ms Hudson with dual responsibilities, some statutorily based and some traditionally public service oriented.
>
> We have responded across the board in a number of areas to our unique situation as a small jurisdiction, a city state, with a range of priorities, and we have sought to respond to meet that circumstance. But I think that has to be understood. As I say, I am happy for Ms Hudson to be asked these questions about whether it works. Is it appropriate? Could it be done better? But, at the end of the day, they are decisions of government and officers fulfil their duties and responsibilities consistently with government decision.[86]

3.30 Notwithstanding the issues raised with regard to the nature and limitations of the ACT jurisdiction, the Committee notes that whilst the current arrangement replicates the model used between 1995 and 1999 where a senior executive with departmental responsibilities also carried out the role of the Commissioner, that during the period October 2003 to January 2006[87], the role of Commissioner was filled at a senior executive level on a part time basis.

3.31 Further, the Committee is aware that there are other positions within the ACT administration where public servants also exercise public service and statutory roles concurrently. The Chief Minister has stated:

> The head of ACTPLA has an administrative public service role and a statutory role. The Conservator of Flora and Fauna has a statutory role and a public service role as the head of a branch and as the Conservator of Flora and Fauna. The public service commissioner has a public service role and a statutory role. It is an incident of the size of our administration to some extent. There has to be some pragmatism around the capacity of a government with our budget, of our size and in an administration of our size, to be a little flexible in some of our administrative arrangements.[88]

3.32 Notwithstanding that there are examples of other ACT public servants concurrently practising public service and statutory roles, the Committee is of the view that the Commissioner for Public Administration, as the

[86] Mr Jon Stanhope MLA, *Transcript of evidence*, 25 November 2010, p. 129.
[87] ACT Commissioner for Public Administration. (2006) *Annual Report 2005–06*, p. 2.
[88] Mr Jon Stanhope MLA, *Transcript of evidence*, 22 January 2009, p. 42.

professional head of the ACTPS, is a different situation to the examples highlighted. The Committee sought detail on the statutory roles of the Commissioner and the Chief Executive of CMD advised:

> I do not have the statutory obligations in front of me but it is clear that there are three main elements to this. One is obviously advice for the commissioner directly to the Chief Minister in terms of the management of the service. Another one is the implementation of admin orders and assistance in that area. The third is being able to look at and advise on public service standards. That, in a nutshell, is it.[89]

3.33 The Committee acknowledges that given the size of the ACTPS, the statutory role of the Commissioner for Public Administration may not require a full time position. The Committee notes that prior to the decision to merge the role with a public service role in 2006, it was filled on a part time basis.

RECOMMENDATION 10

3.34 **The Committee recommends that the ACT Government reconsider its decision to merge the Commissioner for Public Administration's role and function with that of the Deputy Chief Executive of the Governance Division of the Chief Minister's Department. Further, the Government may wish to consider replicating the arrangements in place for the period 2003–2006 where the Office of the Commissioner was filled at a senior executive level on a part time basis.**

Salary packaging and policy (ATO ruling—bus tickets)

3.35 In its report inquiring into 2007–08 Annual and Financial reports, the Committee recommended that the Commissioner for Public Administration explore the feasibility of the inclusion of more environmentally friendly transport items, such as bicycles and bus tickets, as approved salary packaging menu items for ACTPS employees.

3.36 In response to its recommendation, the Committee was advised that the Commissioner would consider the option of including such items under the

---

[89] Mr Andrew Cappie-Wood, *Transcript of evidence*, 25 November 2010, pp. 131–132.

ACTPS Salary Packaging Policy and Procedures subject to advice on the tax deductibility of these items from the Australian Taxation Office (ATO).[90]

3.37 The Committee was interested to know what advice the Commissioner had received from the ATO and the Chief Minister advised that:

> The Australian Tax Office ruled that the reimbursement of ACTPS employees and their associates' travel costs on ACTION buses is an eligible fringe benefit for the purposes of section 62 of the *Fringe Benefits Tax Assessment Act 1986* (FBTAA).
>
> Section 62 of the FBTAA enables the total taxable value of an employee's eligible fringe benefits to be reduced by a maximum of $1,000 in an FBT year under an effective salary packaging arrangement.
>
> The 2010-11 Enterprise Agreements require the Government to initiate action to establish the necessary administrative arrangements to introducing salary sacrificing of public transport by 31 March 2011.[91]

3.38 The Committee was pleased to hear the outcome of the ruling by the ATO and looks forward to the necessary administrative arrangements being established as part of the 2010–11 enterprise agreements.

Investigations and reviews conducted by the Commissioner for Public Administration

3.39 The Committee discussed with the Commissioner various aspects of investigations and reviews, in particular as they relate to fraud and corruption.[92]

3.40 The Committee was interested to know the classification level of officers investigated in relation to fraud issues and how many of these investigations had resulted in dismissal from the ACTPS. The Chief Minister advised:

> It should be noted that not all investigations referred to in the Commissioner for Public Administration's Annual Report relate to the conduct of officers of the ACT Public Service. However, the type of officers who were generally the subject of investigations may be categorised as operational, occasionally with supervisory or managerial functions.

---

[90] Government response to PAC Report No. 2—Report on Annual and Financial Reports 2007–08, 15 October 2009.

[91] Mr Jon Stanhope, Response to Supplementary Question (No. 10), 25 November 2010.

[92] *Transcript of evidence*, 25 November 2010, pp. 133–134.

> In relation to those reported matters where investigations have concluded, there were no dismissals directly attributable to the investigation outcomes. However, it should be noted that in a number of cases individuals chose to resign from the ACT Public Service prior to the investigation being completed.[93]

3.41 The Committee noted that in 2008–09, nine reviews were listed as still pending outcomes and queried what had happened with these matters in 2009–10. The Chief Minister stated:

> The table on pages 28 to 30 of the Commissioner for Public Administration's 2009-10 Annual Report incorrectly refers to investigations undertaken during 2008-09. The matters listed relate to investigations undertaken in 2009-10. The electronic version of the annual report will be amended and a corrigendum is being prepared.
>
> Of those matters identified as pending, the majority remain under investigation or have been referred to ACT Policing. Changes to any processes arising from these incidents will be reported in the Commissioner for Public Administration's 2010-11 Annual Report.[94]

---

[93] Mr Jon Stanhope, Response to QToN (No. 12 and 13), 25 November 2010.
[94] Mr Jon Stanhope, Response to Supplementary Question (No. 12), 25 November 2010.

4 SPECIFIC ISSUES ARISING FROM DEPARTMENT AND AGENCY REPORTS

4.1 This chapter provides information on specific issues arising from departmental and agency annual reports discussed during the Committee's inquiry.

ACT Auditor-General

ACT Audit Office

4.2 The Committee discussed the relationship between the work of the Auditor General and other oversight agencies such as the Commissioner for the Environment. The Auditor-General advised:

> We do have regular contact with various offices within the ACT government, including the office of the commissioner for the environment, the office of the human rights commissioner and a number of statutory commissioners in the office. We talk to them during the planning stage of our performance audit program. Usually, we will send them a list of our proposed audit topics and also ask for their input about the current activities that they are undertaking, if there is any topic that they would like us to undertake and if there is anything that we can work together on in terms of providing an audit which delivers the outcome for both the audit office and the environment office. We go through that process every year. That is how we take into account their input. If a particular audit requires further consultation, we definitely will do that.[95]

4.3 The Director, Performance Audits and Corporate Services added:

> We are somewhat limited in terms of the direct relationship. We have not yet found a way in which we can be collaborative in terms of a particular audit. We do seek to complement each other, but we have not yet had an opportunity to work closely together so that we are both delivering various components of the same job. [96]

---

[95] Mrs Tu Pham, *Transcript of evidence*, 30 November 2010, pp. 161–162.
[96] Mr Rod Nicholas, *Transcript of evidence*, 30 November 2010, p. 162.

4.4 The Committee notes that it has recommended as part of its inquiry into the *Auditor-General Act 1996* that the Act be amended to allow the Auditor-General to conduct joint investigations and/or performance audits with other statutory office holders tasked with oversighting institutional integrity within government.[97]

4.5 The Committee explored the arrangements for auditing ESD indicators as required by the Directions. The Audit Office advised that it does not have a mandate to audit the ESD information included in annual reports. The Auditor-General clarified:

> …we do look at it as part of the performance audit and we make a number of recommendations on those matters. But it is not part of the financial audits.[98]

4.6 The Auditor-General advised that the Audit Office had recently completed an audit on performance reporting, part of which examined the completeness of ESD reporting.[99] The Director of Performance Audits and Corporate Services added:

> We looked at ESD reporting three or four years ago. We found problems with it. That is part of why we focused again on it in this more recent performance audit. The problems essentially still remain. So we have passed it back now to government to suggest that they might have another look.[100]

4.7 The Committee discussed the acceptance rate by agencies of the Auditor-General's recommendations. The appropriateness of the target acceptance rate of 95 per cent having regard to the actual acceptance rate of 72 per cent in 2009–10 was discussed. The Auditor-General advised that:

> The outcome of any audit depends on the final implementation of the recommendations. Unless the agency implements the recommendation, we may not see much change or improvement in the issue identified during the audit. It is our aim to ensure that the recommendation we make is practical and implementable so that agencies actually improve their services.[101]

---

[97] PAC Report No. 15—*Inquiry into ACT Auditor-General Act 1996*, tabled 17 February 2011.
[98] Mrs Tu Pham, *Transcript of evidence*, 30 November 2010, p. 163.
[99] The Committee has previously made comment on ESD reporting as required by the Directions in Chapter two.
[100] Mr Rod Nicholas, *Transcript of evidence*, 30 November 2010, p. 163.
[101] Mrs Tu Pham, *Transcript of evidence*, 30 November 2010, p. 170.

4.8 The Director of Performance Audits and Corporate Services added:

> The difference between a high level of acceptance and the rate that we are quoting here at 72, which is still quite a good result, is that there have been a number of recommendations that agencies have accepted in part.
> …The 72 per cent is, in our view, a pretty good outcome. If we looked at and counted all of those recommendations that were agreed, agreed in part and agreed in principle, we would actually have a number that is very close to 95 per cent, or 98 per cent, really.[102]

4.9 The Committee congratulated the Auditor-General and all agencies on achieving the first unqualified set of audit opinions since self-government for the 2009–10 reporting period. The Auditor-General responded:

> Thank you. I think it is a reflection of the work behind the scenes of the whole financial audit team. There are a number of issues raised during the financial audit process and we work with agencies to make sure that they correct these deficiencies to get their financial statements to the stage where an unqualified audit opinion can be given. But agencies are also very good at taking on board a lot of our recommendations. As we have reported, we make some 500 recommendations throughout the financial audit process and 92 or 93 per cent are accepted. So that is a reflection of the hard work behind the scenes to get to the stage where every single agency gets an unqualified audit opinion.[103]

4.10 As the Auditor-General's term ends in March 2011 the Committee also congratulated her on her seven years as Auditor-General and commended her, in particular for the way she has enhanced the independence of the role.[104]

4.11 The Committee commended Audit Office staff who have elected to use bicycles or walk, where possible, as a means of travel in the performance of their work related duties. The Auditor-General observed some occupational health and safety (OH&S) considerations that may limit choice of travel:

> There are also issues of OH&S. There are times when we consider that our auditors carry an enormous amount of documents with them, and often it is not easy for them to walk. Even if we provide a wheeled bag, to pull it all the way on a road or a footpath is not a good idea sometimes. Depending on the circumstances, we approve a Cabcharge for staff to travel. As I said, the

---

[102] Mr Rod Nicholas, *Transcript of evidence*, 30 November 2010, p. 170.
[103] Mrs Tu Pham, *Transcript of evidence*, 30 November 2010, pp. 164–165.
[104] *Transcript of evidence*, 30 November 2010, p. 164.

> encouragement from the office is a policy to encourage them to take the bus or walk when they can.[105]

4.12 The Committee discussed the delay in finalisation of the 2010 enterprise agreement and the flow on effect to payment of pay rises for Audit Office staff. The Committee has made comment in chapter three of this report with regard to the enterprise agreement negotiations for the 2010 round of bargaining, in particular that negotiations were not progressed at the same rate across all agencies.

4.13 The Committee also discussed:

- positive feedback from agencies on the Audit Office's efforts to improve communication with regard to its audit approach[106]
- improvement in audit staff retention rate[107]
- the decrease in the number of vehicles used by the Office and correlation with a reduction in the amount of CO_2 emissions[108]
- increase in estimated salaries expenditure between 2009–10 and 2010–2011[109]
- a reduction in the audit fee for ACTEW Corporation Limited as ACTEW had addressed the impact of accounting for new water security projects in 2008-09[110]
- the doubling of renewable energy purchased in 2009–10 from 2008–09[111]
- accounting for long service leave liability[112], and
- increase in accrued salaries for 2010[113].

[105] Mrs Tu Pham, *Transcript of evidence*, 30 November 2010, p. 177.
[106] *Transcript of evidence*, 30 November 2010, p. 165.
[107] *Ibid.*, p. 166.
[108] *Ibid.*, pp. 172–176.
[109] *Ibid.*, pp. 167–169.
[110] *Ibid.*, pp. 171–172
[111] *Ibid.*, p. 176.
[112] *Ibid.*, pp. 177–178
[113] *Ibid.*, p. 178.

Business and economic development portfolio

Business and Industry Development—Chief Minister's Department

Red tape reform

4.14 The Committee discussed at length the national reform underway to remove red tape in business transactions with government and its implementation in the ACT. The Committee noted that the Business Council of Australia had recently released a scorecard on red tape reform and its affect on business. That scorecard had found that the ACT had not improved in any significant way since the last scorecard and was ranked the lowest of all jurisdictions. The Chief Minister responded:

> I think that particular ruling or score is around the non-existence within the ACT of a so-called independent regulatory impact committee. We have chosen not to employ one.
>
> ...
>
> We do not because we are a very small jurisdiction. And I think serious consideration has to be given to in what way is the removal of red tape in the ACT enhanced or advantaged by the establishment of an independent body to provide advice on it.
>
> ...
>
> It actually does not go to the existence or level of red tape. It just goes to a process issue in relation to how the issues are managed or the oversight that is given to them in the ACT.[114]

4.15 In response to the Committee's query concerning activity over the last three years to reduce red tape, the Chief Minister advised that the Government was working hard, along with other jurisdictions, on the national program aimed and designed at dealing with red tape.[115]

4.16 The Committee noted an example in the Commissioner for Public Administration's annual report of significant work done by ACTPLA to introduce processes to reduce the backlog of development applications. The Chief Minister commented that this was not an isolated example, and that considerable work to reduce red tape was taking place across government, such as:

---

114 Mr Jon Stanhope MLA, *Transcript of evidence*, 25 November 2010, p. 135.

115 *Ibid.*, p. 136.

> We have done it across the entire planning system in relation to all of those issues around approvals and the nature of approvals. We are doing it in relation to issues around development and land supply. We are doing it in relation to taxation.
>
> ...
>
> There is an acute sensitivity to issues around regulation and red tape and impediments at a bureaucratic, public service, administrative or statutory level that impact on business. It is uppermost in the minds of all those that are involved in the legislative process and, indeed, those that administer the programs. It is something we are acutely aware of, sensitive to and work hard at. But of course there is always more to be done.[116]

Capital Angels

4.17 The Committee discussed the involvement of Business and Industry Development with Capital Angels, which is a business network of private, high net-worth individuals that meets in a structured format to look at company opportunities using a pitch-club process. Business ACT provided a small grant to establish Capital Angels about five years ago.[117]

4.18 In the last twelve months, Capital Angels' Board of Management and the Lighthouse Business Innovation Centre had entered into a contractual arrangement where Lighthouse delivers the program. Any current government assistance such as meeting facilitation by Lighthouse is provided on a cost recovery basis.[118]

Mentoring through Lighthouse program

4.19 The Committee sought further information on the scope of the Mentoring through Lighthouse program and was told:

> This is the number of clients seen by Lighthouse to 30 June 2010 since it commenced operations in July 2008. Not all 150 of these clients are companies – some are individuals who have not yet established a company.
>
> Lighthouse clients are typically individuals evaluating business opportunities or small to medium size enterprises seeking advice on how to grow.
>
> One trend observed by Lighthouse is an increase in what it refers to as "business opportunity validation" from individuals. These clients are typically employed full or part-time and are seeking advice on the feasibility of a

[116] Mr Jon Stanhope MLA, *Transcript of evidence*, 25 November 2010, pp. 137–138.
[117] *Transcript of evidence,* 25 November 2010, pp. 138–139.
[118] *Ibid.*, pp. 138–139.

business idea, market validation, and tools to quickly establish a business if necessary.

Other issues clients seek advice from Lighthouse on include company structure, growth strategies, finance/venture capital, and strategic relationships.[119]

Grants for clean or green economy initiatives

4.20 In the context of TradeConnect's matched grants for specialist services and activities, the Committee was interested to know whether: (i) clean economy or green economy initiatives were prioritised as part of the matching process; and (ii) if there were any specific grant opportunities that focused on clean economy or green economy. The General Manager of Business and Industry Development stated:

> The prioritisation is done with Austrade, so there is a readiness for export test that is applied. So in terms of TradeConnect, there is no specific clean or green dimension to the assessment or criteria process. With our other grant program, which is InnovationConnect, I think we had about 28 grantees last year, of which six or seven are in the clean or green tech space—so about one in five coming through ICon.[120]

4.21 The Committee also discussed:

- the ABS report statistics on business growth and survival in the ACT[121]
- the Regional Development Australia Grouping (RDA) for the ACT[122]
- appointment of case managers for Commercialisation Australia[123]
- Skilled Business Migration[124]
- COAG National Business policy formulation[125]
- research and development spending in the ACT and its comparison with other jurisdictions[126] , and
- the simplification of the national award system covering business industry and additional requests for information to Business ACT[127].

---

[119] Mr Jon Stanhope, Response to Supplementary Question (No. 13), 25 November 2010.
[120] Mr Ian Cox, *Transcript of evidence*, 25 November 2010, p. 145.
[121] *Transcript of evidence,* 25 November 2010, pp. 140–141.
[122] *Ibid.*, pp. 142–143.
[123] *Ibid.*, pp. 143–144.
[124] Mr Jon Stanhope, Response to Supplementary Question (No. 19), 25 November 2010.
[125] Mr Jon Stanhope, Response to Supplementary Question (No. 16), 25 November 2010.
[126] *Transcript of evidence,* 25 November 2010, pp. 144–145.
[127] *Transcript of evidence,* 25 November 2010, p. 145.

Chief Minister's portfolio

Chief Minister's Department (CMD)

Release of a triple bottom line assessment tool

4.22 The Committee discussed at length the release of a triple bottom line assessment tool and was interested in how it might relate to OSCAR reporting. The Deputy Chief Executive, Policy told the Committee:

> This is work scheduled in the current year. We had hoped to have done it a little bit earlier, so it is still an emerging area. Basically, we are trying to develop a policy assessment framework that looks across the different dimensions of social, economic and environmental dimensions of sustainability. It is still a work in progress, so I guess there is not a great deal we could say at this stage in terms of what that is going to look like. We are still having discussions across government and it is also still subject to taking a proposal to cabinet.[128]

4.23 The Committee sought to ascertain whether the work would be looking at programs, actual program delivery, and policy initiatives, and was told:

> That is still a matter that is subject to further development and consideration by cabinet.[129]

4.24 The tool is an emerging piece of work with its frame still subject to Cabinet approval. As to the timeframe for progression, the Committee was advised that completion was targeted for the 2010–11 financial year and that internal staff resources had been allocated to it. The Committee was told:

> The people working on it are in one branch of the team. At the moment there would be one person who has primary responsibility for that, but of course they have some other responsibilities as well. As we indicated in the annual report, in our division we also have to juggle responding to emerging issues. Again, it is always that question about how we balance our workload. Sometimes new priorities come out and we have to readjust our priorities. That is one of the issues with that piece of work, but it is a clear commitment for this financial year.[130]

4.25 The Committee is of the view that whilst the tool is being presented as a policy assessment and evaluation tool, on the basis of the evidence, it appears to be focused only on policy formulation. Without adequate

---

[128] Ms Pam Davoren, *Transcript of evidence*, 25 November 2010, p. 104.
[129] *Ibid.*
[130] *Ibid.*

consideration of policy delivery and implementation, the tool risks being only a reporting tool, for example, such as OSCAR. The Committee believes that as a policy tool, it would be more robust and useful if it factored in these additional considerations.

RECOMMENDATION 11

4.26 **The Committee recommends that the Chief Minister's Department should ensure that the triple bottom line assessment policy tool encompasses more than policy formulation to include policy implementation and delivery.**

Federal funding—Constitution Avenue and the Burley Griffin Legacy projects

4.27 Yet again, the Committee sought an update on receipt of the federal funding for Constitution Avenue and the Burley Griffin Legacy projects. The Chief Minister told the Committee:

> I raised the issue with Minister Crean yesterday in very strong terms. Mr Crean was not previously aware of the issue and I think that is one of the issues—with changes in the ministry or within that particular responsibility. But Mr Crean took my representations very seriously. He asked me to write to him and to provide him with details of the arrangement, the formal agreement which the ACT government entered into with the then government. As you are aware, there was an arrangement; I believe a contractual agreement. It was not necessarily drafted as a contract but there was an exchange of letters between the ACT and the commonwealth— [131]

4.28 The Committee notes that the former Federal Government committed the funds for these projects, that the Territory has honoured its part in the arrangement entered into with the Federal Government, and that the Territory should have received payment by now.

RECOMMENDATION 12

4.29 **The Committee recommends that the Chief Minister update the ACT Legislative Assembly in six months time on progress with regard to receipt of the federal funding for Constitution Avenue and the Burley Griffin Legacy projects.**

---

[131] Mr Jon Stanhope MLA, *Transcript of evidence*, 25 November 2010, p. 127.

Centenary of Canberra celebrations

4.30 The Committee discussed with the Chief Minister the Federal Government's limited engagement with the Centenary celebrations to date and its unwillingness to take a significant public position with regard to the Celebrations. The Chief Minister told the Committee:

> It remains an issue of some concern for us that the commonwealth *[sic]* have not engaged as fully as we would like our national government to engage. The ACT government has made, over time in relation to contributions, significant monetary commitments. We have put enormous energy and effort into organising and engaging with the community, and we are seeking to engage with the commonwealth, but as of today not particularly successfully.
>
> I raised the issue again yesterday with the now federal minister with responsibility for the ACT, the minister for local government, Simon Crean. I had a very good meeting with him yesterday and raised again our strong desire for the commonwealth to take a significant public position in relation to the centenary insofar as, most particularly, it affects all Australians as a celebration of their national capital. All I can do is continue to make those representations, which I will. I have not had an opportunity yet to meet personally or directly with the Prime Minister but I anticipate doing that, hopefully over the next four weeks or so, and I will make the representations to her directly as I did yesterday with Simon Crean and as I will—I have meetings scheduled—with the Treasurer and the minister for finance in the next couple of weeks. In the context of the budget I will certainly be making those representations again.
>
> I think it is vitally important that the commonwealth engage, and engage seriously and genuinely, in working with the ACT government both to fund and to celebrate our centenary, and I remain hopeful.[132]

4.31 The Committee emphasises the uncertainty surrounding the Federal Government's involvement is not only impacting on the scope and depth of the program but also with its finalisation. The flow on effect of any further delay in finalising the program is significant, as the Committee understands that some in the business community have indicated that opportunities are already diminishing in the absence of a firm program. This is on the basis that the marketing of international conferences requires a three to five year booking timeframe, and in the case of professional conference organisers, they are limited in marketing an event without a

---

132 Mr Jon Stanhope MLA, *Transcript of evidence*, 25 November 2010, pp. 124–125.

firm program. The Committee was interested to know when the final program would be released and was told:

> We are relying largely on some commonwealth commitment. We were hopeful that that would happen in the next commonwealth budget. Robyn Archer has created a program that, as the Chief Minister said, can grow and grow very quickly, because that money will need to be committed almost immediately to an expansion of the program. I think the timing for the broader release of the program would be towards the end of next year.[133]

4.32 The Committee is of the view that timing for the broader release of the program by the end of 2011 for a 2013 event may be too late for most conference organisers. When asked when a commitment from the Federal Government would be needed to release a program at the end of 2011, the Chief Minister stated:

> We have been assiduously seeking a commitment for the last five years. You are quite right, though, Mr Smyth: we reach a point where it is almost too late and I would think that any commitment after this next budget by the commonwealth would make it extremely difficult for us to incorporate any enhanced commonwealth funded element into the program; that is, in the context of that first tranche that I mentioned, the celebration. But, in relation to a physical legacy, that is a decision that can be made right up until 2013.
>
> I would think it is reasonable to say that if the commonwealth did not commit in the 2011-12 budget funds for the celebration of the centenary then it is extremely late.[134]

RECOMMENDATION 13

4.33 **The Committee recommends that the Chief Minister inform the ACT Legislative Assembly on the outcome of his forthcoming representations with the Prime Minister, the Treasurer and the Minister for Finance, in relation to the Territory's strong desire for the Commonwealth to take a significant public position in relation to the Centenary Celebrations.**

---

[133] Mr Jeremy Lasek, *Transcript of evidence*, 25 November 2010, pp. 125–126.
[134] Mr Jon Stanhope MLA, *Transcript of evidence*, 25 November 2010, p. 126.

RECOMMENDATION 14

4.34 **The Committee recommends that the Chief Minister's Department should expedite the broader release of the Centenary of Canberra program as a matter of urgency.**

Public disclosure of the Cabinet agenda

4.35 The proactive management of Cabinet's forward agenda and collaboration in the preparation of Cabinet submissions was discussed. The Chief Minister's views on public disclosure of the Cabinet agenda were sought. This was on the basis that there is a public interest consideration in making the community aware of issues that may be coming up on the Cabinet agenda.[135]

4.36 In response to a question in relation to public disclosure foreshadowing or signalling that the Cabinet will, on a particular day, be giving consideration to a particular issue, the Chief Minister commented:

> I have never given particularly strong attention to the issue, Ms Hunter. But I will say in relation to the non-disclosure—and I believe it is related—of business in cabinet, there are very good reasons for not disclosing cabinet deliberations in relation to the health of our form of responsible government. I believe it is a very important principle and I will defend it.
>
> There would be a question, and I honestly have not given serious consideration to the issue, Ms Hunter, in foreshadowing or signalling that the cabinet will, on a particular day, be giving consideration to a particular issue in relation to the lobbying that would have been assumed, the positioning, the nature perhaps of influence that would be sought to be borne, and some of the implications perhaps for those that advise the cabinet in relation to a particular matter that is coming before the cabinet.
>
> I have an open mind about being transparent and I have no desire to not disclose things that quite reasonably could be disclosed, particularly if there were no undue or unintended consequence or impact on the business of government, most particularly cabinet. On first blush, I cannot see why I would necessarily object but I would want to perhaps think on it.[136]

4.37 The Committee is of the view that there is a public interest consideration with regard to transparency and openness in foreshadowing that the

---

[135] *Transcript of evidence*, 25 November 2010, pp. 119–120.
[136] Mr Jon Stanhope MLA, *Transcript of evidence*, 25 November 2010, pp. 119–120.

Cabinet will, on a particular day, be giving consideration to a particular issue. The Committee welcomes the Chief Minister's willingness to turn his mind to the matter as raised by Ms Hunter MLA.

RECOMMENDATION 15

4.38 **The Committee recommends that the Chief Minister give consideration to public disclosure of the Cabinet agenda and inform the ACT Legislative Assembly on the outcome of his consideration.**

4.39 The Committee also discussed:

- the whole-of-government approach to grants administration[137]
- the *Live in Canberra* campaign[138]
- the Community Engagement Working Group[139]
- coordination of the COAG National Health Reform Initiative[140]
- the ACT Government Infrastructure Plan 2010, in particular the cost of developing the Plan, whether the Plan may assist the Territory in its eligibility to access funds from the Commonwealth's infrastructure fund, submissions to the Commonwealth's Infrastructure Australia and whether submissions lodged by jurisdictions are publicly available[141]
- the role of CMD in 'Measuring our progress website' – linkages with ACT Government Departments and agencies[142]
- community inclusion initiatives, in particular the 'Home to work' project pilot and its independent evaluation by ANZSOG's Institute of Governance at the University of Canberra and NATSEM[143], and
- the role of Departmental Liaison Officers (DLOs), numbers of DLOs across the Executive and how costs for DLOs are accounted for by agencies[144] .

---

[137] Mr Jon Stanhope, Response to Supplementary Question (No. 6), 25 November 2010.
[138] Mr Jon Stanhope, Response to Supplementary Question (No. 5), 25 November 2010.
[139] Mr Jon Stanhope, Response to Supplementary Question (No. 9), 25 November 2010.
[140] *Transcript of evidence*, 25 November 2010, pp. 111–114.
[141] *Ibid.*, pp. 106–110.
[142] Mr Jon Stanhope, Response to Supplementary Question (No. 3), 25 November 2010.
[143] *Transcript of evidence*, 25 November 2010, pp. 113–116.
[144] *Ibid.*, pp. 100–103.

Gaming and racing portfolio

ACT Gambling and Racing Commission

4.40 The Committee was interested to know the impact of the *Unlawful Gambling Act* which commenced in March 2010. The Chief Executive of the Commission advised that it was a new Act which 'replaced three previous quite old pieces of legislation'. The Act was the outcome of a review focused on tightening up provisions concerned with regulating unlawful gambling in the Territory. The Review identified a number of ambiguities that needed to be clarified and as a consequence the drafting of the old acts was amended along with updating of offence provisions.[145]

4.41 With regard to the impact of the Act to date, the Committee was told:

> ...we have only had one complaint of unlawful gambling activity since that act commenced, and that is currently under investigation. It is relatively minor. In terms of what the rest of the act covers, it provided for charitable gaming. We have had no applications from a charitable organisation to conduct such gaming, which is not a great surprise to us. That opportunity is there for them to fund-raise through that opportunity but we have had no applications through that.
>
> In terms of gaming in private houses, that is not something which we audit on or investigate unless we actually have a formal complaint. We have had no complaints about unlawful gambling activity being conducted in private homes or, in fact, in commercial organisations which would be unlawful, other than that one complaint I mentioned earlier.[146]

4.42 The Committee discussed the Independent Competition and Regulatory Commission's (ICRC) review of the racing industry and was interested to know the level of involvement by the Minister for Gaming and the Commission in establishing the Review. The Minister advised that he had asked for the Review, and had asked the Attorney-General to commission the ICRC to conduct it.[147] In terms of coverage, the Review covers thoroughbred horse racing, harness racing and greyhound racing in the

---

[145] *Transcript of evidence*, 30 November 2010, pp. 211–212.
[146] Mr Greg Jones, *Transcript of evidence,* 30 November 2010, p. 211.
[147] The ICRC received a reference from the Government on 13 October 2010; *Transcript of evidence*, 30 November 2010, p. 212.

ACT.[148] The Minister advised that the call for the Review was prompted by:

> A change in the funding structure for the racing industry, a short-term resolution of some of the issues, obviously a desire in the longer term to see more stability for industry funding. There are a number of different issues that confront the industry in relation to national reforms and the outcomes of certain legal matters and legal challenges in other jurisdictions, particularly around product fees, for example. So there are a number of uncertainties and I thought it was important to have an independent party rigorously examine the totality of industry funding.[149]

4.43 The Committee understands that the commissioning of the Review follows the Government's decision to allocate funding to the ACT Racing Industry through the Budget together with recommendations made by the Productivity Commission concerning the implementation of race field legislation and product fees across Australian jurisdictions.[150]

4.44 The Committee discussed income from gaming, in particular revenue collected from gaming machines and sought confirmation that the ACT, in terms of gaming machine tax, is one of the lowest taxing jurisdictions in Australia. The Chief Executive advised:

> In terms of gaming machine tax, we are about the second lowest. Because it is a sliding scale, it depends on what level of activity, meaning what size of club, you are looking at. New South Wales have a lower tax rate for the smaller clubs than us. They have quite a large tax threshold. Some of our top-end clubs pay slightly more than what the equivalent would be in New South Wales. But we are about the second lowest taxing jurisdiction of gaming machines in Australia.[151]

4.45 The Committee also discussed:

- problem gambling research projects the Commission has been party to, or commissioned, during the reporting period[152]
- how the findings of the ANU's Gambling Prevalence Study will be

---

[148] ICRC. (2010) Media release: 'ACT Racing Industry Review', 2 November 2010.
[149] Mr Andrew Barr MLA, *Transcript of evidence,* 30 November 2010, p. 212.
[150] ICRC. (2010) Media release: 'ACT Racing Industry Review', 2 November 2010.
[151] Mr Greg Jones, *Transcript of evidence,* 30 November 2010, p. 213.
[152] *Transcript of evidence,* 30 November 2010, p. 213.

factored into future research projects[153]

- the impact of the effectiveness of problem gambling assistance measures provided through the clubcare program[154]
- the Government response and contribution to problem gambling[155], and
- regulation of gaming machines.[156]

Industrial relations portfolio

Industrial relations policy—Chief Minister's Department

Workers' Compensation Scheme

4.46 The Committee discussed extensively proposed changes to the structure of the ACT Workers' Compensation Scheme. The Committee inquired as to the basis for the proposed 15 per cent permanent impairment threshold in the Scheme. The Senior Manager, Office of Industrial Relations explained:

> As part of the body of work, when we were looking at increasing the scope and number of injuries that could be compensable within the statutory framework, in tandem with that, we looked at the common law regime. Across the country, jurisdictions either have no access to common law whatsoever or they have thresholds in place. We arrived at 15 per cent, as 15 per cent is the lowest in the country, with the exception of the Comcare scheme. The Comcare scheme, though, does not allow payments of statutory lump sums if you have got a whole personal impairment of less than 10 per cent.
>
> What this scheme is proposing is that, if you have a whole person impairment of one per cent or more, you get access to a statutory lump sum and, in addition, if you have got 15 per cent or more whole person impairment, you would maintain access to common law. So 15 per cent, from a workers compensation scheme, is the lowest in the country for accessing common law. That is one of the key drivers.[157]

---

153 *Transcript of evidence,* 30 November 2010, pp. 213–214.
154 *Ibid.*, pp. 214–216.
155 *Ibid.*, pp. 215–219.
156 *Ibid.*, pp. 211–212.
157 Ms Meg Brighton, *Transcript of evidence* 9 November 2010, p. 67.

4.47 The Committee inquired as to the treatment of a worker under the proposed Scheme who may work on both sides of the border—ACT and NSW. The Committee was informed that:

> The ACT proposal is quite different from New South Wales. What we have at the moment is that the ACT becomes the jurisdiction. Particularly where there is discrepancy about what jurisdiction those workers are attached to, the ACT is the jurisdiction those workers move into for coverage because of our unlimited common law environment. Where we have alignment with New South Wales, we are proposing a 15 per cent threshold, like New South Wales. But, critically, in the ACT we are proposing that workers will maintain access to unlimited common law in this jurisdiction. Unlike New South Wales, when you go into the common law regime, all you get access to is economic loss.
>
> ...
>
> In New South Wales, there is a statutory limit on pain and suffering, and it is not compensable through the common law regime. It is an allocated amount, based on your level of injury.
>
> ...
>
> In the ACT scheme, if you have got a whole person impairment of 15 per cent or more, you are in unlimited common law damages, which gives you economic loss as well as pain and suffering.[158]

4.48 The Minister advised that the Government is not seeking to reduce entitlements:

> We are actually trying to increase the payments going to injured workers but provide some balance and some controls over a small number of very high-cost claims…[159]

4.49 The Minister also advised that a range of business stakeholders and insurers are in agreement with almost every aspect of the proposed bill. The only areas of disagreement concern the threshold for the 15 per cent impairment and dispute from the plaintiff lawyers with regard to the proposed changes on advertising. The proposed changes are set out in an exposure draft of the bill and will be subject to further discussion in the Assembly. [160]

---

[158] Ms Meg Brighton, *Transcript of evidence,* 9 November 2010, p. 70.
[159] Ms Katy Gallagher MLA, *Transcript of evidence,* 9 November 2010, p. 68.
[160] *Ibid.*, p. 74.

4.50 The Committee was interested to know when the actuarial review of the Workers' Compensation Scheme would be completed and publicly available. The Chief Minister advised:

> The 2008-09 actuarial assessment of the ACT private sectors workers' compensation scheme has been completed and the 2009-10 assessment will commence in February 2011. The actuarial report includes analysis of detailed commercial-in-confidence data and as such the report in its entirety will not be released publicly.
>
> The Chief Minister's Department has, however, published relevant elements of the report on its website. These Scheme metrics provide an overview of number of claims, number of claims receiving weekly benefits, average cost of claims and the Scheme's payment profile.
>
> The actuarial reports and the earlier work of the 2006 review informed the development of a range of improvements proposed to the Scheme that will deliver an affordable system for employers, fair treatment of injured workers, improved performance of Scheme providers and an effective governance and management regime for the Scheme.[161]

Grant to UnionsACT

4.51 Under the grants section in the CMD Annual Report, the Committee noted a payment to UnionsACT of $94 636 in 2009–10 for the delivery of safety liaison and education in the occupational health and safety space and sought further information whether it was a grant and the process used to allocate the funding. The Minister advised that it was an ongoing initiative which had been funded several years ago and the decision that UnionsACT be the provider had been determined through the budget process also a number of years ago. As to how UnionsACT accounts for the grant, the Minister stated:

> UnionsACT each quarter provide a statement of activity where they say what they have done, who they have visited, what types of seminars they held, what types of advice and assistance they gave. That is provided with the invoice every quarter to the office.[162]

---

[161] Mr Jon Stanhope, Response to Supplementary Question (No. 4), 25 November 2010.
[162] Ms Katy Gallagher MLA, *Transcript of evidence*, 9 November 2010, p. 80.

4.52 The effectiveness of the work of UnionsACT is assessed:

> Through the Work Safety Council there is a report back. Business groups as well as other members of the council give an indication of what impact that is having anecdotally. In terms of metrics, apart from attendance—[163]

4.53 The Committee asked whether the Government had ever conducted a review of the effectiveness of this ongoing program to measure whether or not it is value for money for the taxpayer. The Minister was not aware of a specific review of this program and agreed to examine it.[164]

RECOMMENDATION 16

4.54 **The Committee recommends that the Chief Minister's Department, in conjunction with the ACT Work Safety Council, review the effectiveness of the service provided by UnionsACT for the work safety liaison and education program in the occupational health and safety space.**

National harmonisation of work health and safety and workers' compensation laws

4.55 The Committee discussed the proposed harmonisation of occupational health and safety laws in Australia. The Committee inquired as to what needs to be done to make the ACT law compatible with the national framework with particular reference to what areas will substantially change. The Director of the Office of Industrial relations explained:

> They are actually quite similar. Because the ACT had the most recently updated set of work safety legislation, and because we were aware of national harmonisation being on the horizon, the two pieces of legislation are quite similar. Where they diverge is in the third party right to prosecution. We are working on the model regulations at the moment. They are not released, and their release is anticipated towards the end of the year. We expect, although they are not finalised, that there may be a degree of divergence there. So at the regulation and at the code of practice level, there may be a further level of difference. There is also the reduction in penalties from seven years to five years. We had a higher maximum penalty than other jurisdictions, so that is—
>
> ...
>
> For persons convicted of recklessness or gross negligence.[165]

---

[163] Ms Liesl Centenera, *Transcript of evidence*, 9 November 2010, p. 80.
[164] Ms Katy Gallagher MLA, *Transcript of evidence,* 9 November 2010, pp. 80–81.
[165] Ms Liesl Centenera, *Transcript of evidence*, 9 November 2010, p. 84.

4.56 The Treasurer advised that the Government would bring forward some legislation in the autumn sitting.[166]

2010 Enterprise Agreement negotiations

4.57 The Committee discussed the current public sector enterprise agreement process, in particular the cost of the one year agreement and the role of the Office of Industrial Relations and the Public Sector Management Branch in the negotiations and bargaining process. The Minister advised that CMD had led the bargaining process on behalf of the Government, which had been managed through the Office of Industrial Relations and the Public Sector Management Branch.

4.58 The Committee asked if the cost incurred for negotiating a one year agreement had been considered. The Minister responded:

> We did not want a one-year agreement. We wanted a three-year agreement. It was not ever going to be accepted by the unions and non-bargaining groups we were negotiating with. Because we were offering 2.25 per cent at the time, there was no way the employees were going to lock in for three years at that rate. In terms of trying to protect our budget and to get out with the minimum cost to our budget that we could in the short term, we took a one-year option.[167]

4.59 The Minister added that the main costs incurred for the one year agreement was staff time to manage the negotiations and some consultancies which were awarded for specific pieces of work.[168]

4.60 The Committee has made comment on this matter at chapter three.

Community sector long service leave (LSL) update

4.61 The Committee discussed progress with regard to the introduction of the community sector long service leave scheme. The Registrar of the ACT Long Service Leave Authority advised that all known community organisations had been contacted regarding employer registration and provided with guidelines and assistance for completion of returns and making payments. To date 220 employer registrations had been received, first returns had been distributed and a number of employers had

---

[166] Ms Katy Gallagher MLA, *Transcript of evidence,* 9 November 2010, p. 84.
[167] *Ibid.*, p. 85.
[168] *Ibid.*

completed returns and made payments of first quarter levies, which are due by late November 2010. The legislation allows for retrospective payments by any organisations that may be identified later that should be registered in the scheme.

4.62 The Committee was further advised that employees will be registered from their employer's return, following which a letter will be sent to each employee, as provided under the legislation.[169]

Community sector equal pay case

4.63 The Committee discussed the equal pay case for the social and community sectors which is currently before Fair Work Australia. The Minister advised that a decision is expected in the first half of 2011.

4.64 The Committee sought advice on the likely cost to the ACT of the pay increases for community sector workers. The Minister advised a potential figure of $20 million in terms of funding from the Government.[170]

Role of OIR with sham contracting

4.65 The Committee discussed the role taken by the Office for Industrial Relations to address the practice of sham contracting around the country. The Minister advised that the ACT had been leading this work in terms of lobbying other jurisdictions and the Commonwealth. The Office of Industrial Relations carried out the policy work with assistance primarily by the CFMEU and the LHMU, provided papers, and led discussions.

> I have certainly had correspondence from other [Workplace Relations Minister's Council] ministers, responding to the ACT's work, saying, "Yes, we agree; this needs to be dealt with".[171]

4.66 The Director of the OIR advised that the ACT is also taking the lead in developing options to reform division VI of the *Commonwealth Fair Work Act 2009* for negotiation with other jurisdictions. The reform of the Act is seeking to address the difficulty of prosecution due to the hidden nature of what is referred to as 'a disguised employment relationship' and also to

---

[169] Mr Phil Collins, *Transcript of evidence,* 9 November 2010, p. 85.
[170] *Transcript of evidence,* 9 November 2010, p. 86.
[171] Ms Katy Gallagher MLA, *Transcript of evidence,* 9 November 2010, p. 87.

provide for an enhanced regulatory presence to monitor the issue. The Committee was told:

> The worst thing that these organisations do is undermine valid businesses that are operating perfectly, the ones that are paying their workers comp, doing all the training, paying all the employee entitlements. They are being undercut by others who are engaging sham contractors so that they are able to cut their costs, compete for contracts better and gain a whole lot of advantage.[172]

4.67 Two local initiatives are underway to address sham contracting. Firstly, some changes have recently been made to the definition of 'worker' under the *Workers Compensation Act* and, secondly, the ACT is researching the suitability for implementation across ACT government contracts of an audit tool formulated by New South Wales which establishes whether a contracting arrangement is legitimate.[173]

Default Insurance Fund—explanation for increase in legal fees

4.68 The Committee sought an explanation for an increase in legal fees for the Fund of about one third of the previous year's fees, and was advised that generally this reflects the nature of the claims, as some claims, for example, asbestos related, involve more input from the Government's lawyers.[174]

4.69 The Committee notes that due to the lack of comparative figures for the previous reporting periods in the Fund's annual report it was difficult for the General Manager to provide a detailed explanation for the increase in legal fees.[175]

RECOMMENDATION 17

4.70 **The Committee recommends that the Default Insurance Fund include comparative figures for the previous reporting periods in its annual report tables.**

4.71 The Committee emphasises the importance of complete and informative performance reporting. Performance reporting is complete if, amongst other things, it includes trend data (for example, multi-year comparative

---

[172] Ms Liesl Centenera, *Transcript of evidence,* 9 November 2010, pp. 87–88.
[173] *Transcript of evidence,* 9 November 2010, p. 90.
[174] Mr John Fletcher, *Transcript of evidence,* 9 November 2010, p. 90.
[175] *Transcript of evidence,* 9 November 2010, p. 90.

tables and/or graphics ideally over the last three years) and a discussion and analysis of changes over time.[176]

RECOMMENDATION 18

4.72 **The Committee recommends that ACT Government agencies ensure that performance reporting in their respective annual reports is complete and informative. This should include, where appropriate, trend data (for example, multi-year comparative tables and/or graphics ideally over the last three years) and a discussion and analysis of changes over time.**

ACT Long Service Leave Authority

Role of Authority in sham contracting

4.73 The Committee discussed the role of the Long Service Leave Authority (the Authority) in terms of sham contracting. The Registrar advised that the Authority had a compliance and enforcement process that operates by identifying employers listed on government contracts that are not registered with the Authority. The Authority contacts them personally and makes them aware of their statutory responsibilities, and then seeks to ascertain whether their workers are employees or subcontractors. The Registrar added:

> If the employer maintains that they are a contractor and that they are employing subcontractors rather than employees, we essentially have to accept that.
>
> ...
>
> If we think they are non-compliant and we believe they should be registered with us, we will serve them a notice. If they ignore that notice or do not register them, we can take them to the ACT Civil and Administrative Tribunal. We have taken a number of employers to the ACAT for a number of issues, including non-registration…. if worse comes to worst, so to speak, we can go to the DPP. We have done that in the past as well.[177]

[176] NSW Audit Office (2000) Better Practice Guide—*Reporting Performance: A guide to preparing performance information for annual reports*, November, pp. 12–13.

[177] Mr Phil Collins, *Transcript of evidence*, 9 November 2010, p. 91.

4.74 The Authority also advised the Committee that it occasionally receives complaints from employees and unions about non compliance.[178]

Transfer of long service leave entitlements for one officer

4.75 The Committee discussed an ongoing issue that had featured in the annual reports of the previous two reporting periods, involving the transfer of an officer's long service leave entitlements from a department to the Authority. The Minister advised that the issue had not yet been resolved. The Director of the OIR added that the matter was being handled by Treasury. The Committee understands that the delay, in the main is attributable to cash management principles, whereby an employee's leave balance is transferred, but the cash entitlement for the leave balance does automatically go with them:

> That is a very big issue for the Long Service Leave Authority because they are such a small agency. If they have somebody who has lots of long service leave and lots of annual leave going out or coming in, they will have to cover that cost.[179]

4.76 The Director of the OIR added further that the Authority's individual problem is symptomatic of a larger issue:

> What would have to happen is that in each individual case—the Long Service Leave Authority would not be alone—you would have to consider whether there is enough reason to depart from your very set framework and your very set cash management principles. If the Long Service Leave Authority has that type of arrangement, there will be lots of other authorities that will be in that position. As an issue of fairness, they will have to be addressed too.[180]

4.77 The Minster for Industrial Relations further advised:

> It is not about one. Yes, there is one officer but I think there is a bigger picture that has been opened by this situation that needs to be resolved by Treasury.[181]

---

[178] Mr Phil Collins, *Transcript of evidence*, 9 November 2010, p. 92.
[179] Ms Liesl Centenera, *Transcript of evidence*, 9 November 2010, p. 92.
[180] *Ibid*.
[181] Ms Katy Gallagher MLA, *Transcript of evidence*, 9 November 2010, p. 93.

4.78 The Committee also raised the issue with the Deputy Chief Executive of CMD and was advised:

> My recollection is that this question was asked of the office of the IR minister's annual reports and we took it on notice to follow up. Essentially, we have resolved all of the issues that we wanted to look at to ensure the governance arrangements were appropriate, apart from one issue which was to do with the long service leave balances. In terms of that being sorted, it is a matter for Treasury. Because it is to do with financial management they have the lead role on that.
>
> I understand the expectation is that things will not change, as it is a whole-of-government policy position that has worked in a whole-of-government sense. The balancing act that they are looking at—is it worth changing a whole-of-government position for one or two or three occasions that it seems to be a problem for?—remains with Treasury and they are still considering that issue.[182]

4.79 The Committee is most concerned about this issue. There is concern about the way in which the transfer of the entitlements associated with an officer who transferred from an ACT Government department to the Long Service Leave Authority has been subject to extra-ordinary delays. There also is concern that this issue has a broader application, with the Minister for Industrial Relations telling the Committee that there is a 'bigger picture' involved with this issue.

4.80 The Committee finds it unacceptable that this issue remains unresolved after more than two years of attempting to finalise it. Indeed, the Committee considers that the handling of this issue has been most unsatisfactory, particularly in relation to the officer who transferred to the Authority.

---

[182] Ms Cathy Hudson, *Transcript of evidence,* 9 November 2010, p. 130.

RECOMMENDATION 19

4.81 **The Committee recommends that ACT Treasury give urgent attention to: (i) resolving the long standing issue of the transfer of long service leave entitlements, including cash entitlements, for the affected officer of the Long Service Leave Authority; and (ii) determine a policy for the transfer of long service leave entitlements, including cash entitlements, for all small ACT Government agencies.**

4.82 The Committee also discussed:

- the availability of data on the number of workers' compensation claims[183]
- the Default Insurance Fund's management of underinsurance[184]
- outstanding claims from closed insurance funds[185], and
- communication with the community sector with regard to the sector's LSL scheme[186].

Legislative Assembly Secretariat

2010 Select Committee on Estimates and specialist budget adviser

4.83 The Committee discussed the benefit of the early establishment of the 2010 estimates committee program. The new arrangement established the estimates program in the first sitting week of 2010 (February) instead of towards the end of March or early April as in previous years.[187]

4.84 The Secretariat advised that the early establishment was beneficial in terms of giving more opportunity to consolidate the program to ensure that it suited Committee members and to confirm it early in Ministers' diaries.[188]

4.85 The Committee sought information on the cost in 2008–09 of the consultant adviser to the 2009–10 Select Committee on Estimates and was advised:

---

183 *Transcript of evidence,* 9 December 2010, pp. 79–80.
184 *Ibid.*, p. 89.
185 *Ibid.*, pp. 89–90.
186 *Ibid.*, pp. 94–95.
187 Mr Max Kiermaier, *Transcript of evidence*, 4 November 2010, p. 58.
188 Ms Sandra Lilburn, *Transcript of evidence*, 4 November 2010, p. 58.

> The consultant in May 2009 (Mr Tony Harris) was paid a total of $8, 300.[189]

4.86 The Committee notes that the cost for the consultant adviser in 2009–10 for the 2010–11 Select Committee on Estimates was $27 000[190], an amount significantly higher than the cost incurred for the consultant adviser in 2008–09. The Committee inquired as to whether any evaluation of the effectiveness of the assistance provided by each consultant adviser had been made. The Speaker stated:

> Not at this time. As you may recall, the administration and procedures committee undertook an inquiry as to whether we should establish a budget office for the Assembly. A range of options were considered in that process ranging from having a permanent staff member through to the service that we are currently operating. Certainly, the decision at the time—the recommendation of the administration and procedure committee—was that this was the most cost-effective approach for the Assembly. It was a relatively small cost compared to setting up a full-scale office for the size of the Assembly. But no formal review has been undertaken at this stage. No-one has made that suggestion yet. It is probably a good one and we will give some consideration to it. I will take it up with the committee.[191]

4.87 The Committee is of the view that the effectiveness of the assistance provided by the consultant adviser to the Select Committee on Estimates should be reviewed as an ongoing practice from 2010–11 and welcomes the Speaker's agreement to give it some consideration. Further, the outcome of any such review should be used by relevant stakeholders to inform future consultant adviser appointments.

RECOMMENDATION 20

4.88 **The Committee recommends that the Legislative Assembly Secretariat, in conjunction with the respective Select Committee on Estimates, review the effectiveness of the assistance provided by the consultant adviser to the Select Committee on Estimates as an ongoing practice from 2010–11.**

---

[189] Mr Shane Rattenbury MLA, Response to QToN (No. 2), 4 November 2010.
[190] *Transcript of evidence*, 4 November 2010, pp. 58–59.
[191] Mr Shane Rattenbury MLA, *Transcript of evidence*, 4 November 2010, p. 59.

Internet speed

4.90 The ongoing issue of internet speed was discussed. The Secretariat advised that it regularly raised the issue with InTACT[192] which is working on improving the speed. The Speaker informed the Committee:

> I think that is a frustration shared by other members, Ms Le Couteur. We did have a meeting. This year the administration and procedure committee invited the head of InTACT to come and meet with us, at which point the committee raised a number of IT issues. We felt that it was useful to have that direct contact with the head of InTACT. Members have expressed a number of concerns about our IT service, including access to iPhones and issues around access to applications such as Skype and the like. We have certainly taken those issues up directly with InTACT.[193]

4.91 The Manager of Hansard, Communications and Library added:

> ...I am afraid we regularly raise this with InTACT. They have conducted two surveys recently, which members might have participated in. They assure us that there have been improvements. They have made improvements to routers and so on. It is time dependent, I think. Members probably notice that around lunchtime it is much worse than at other times. There is, apparently, yet another upgrade to an internet server that they have in train. I believe that they postponed it recently because it might well have affected the sitting pattern. So that is in train.
>
> We are constantly raising it with them. There is nothing that I am aware of that is going to improve the problem to any great degree. They seem to be working on it all the time. They are acknowledging the response, but they do assure us that they are working on it and it should be improving. I will raise it yet again.[194]

4.92 The Committee discussed the plausibility of bringing the ICT service in-house and the associated risks. The Secretariat was of the view that having another provider carry the risk, rather than it, was more in the Assembly's interests, whether it be InTACT or another provider. There are further issues with engaging a provider other than InTACT, such as connecting new technology and moving to new applications that also require consideration. A representative from the Secretariat explained:

---

[192] InTACT—the ICT service provider for the ACT Legislative Assembly.
[193] Mr Shane Rattenbury MLA, Transcript of evidence, 4 November 2010, p. 59.
[194] Ms Val Barrett, *Transcript of evidence*, 4 November 2010, pp. 59–60.

> Things like connecting BlackBerries are long and convoluted issues. There is always a problem with security, there is always a problem with reliability, and I am not certain how much of that we would overcome. Maybe we should test it. It is within our capacity to do that. We would have to do a lot of work to make sure that we were not putting the Assembly at risk. [195].

4.93 The Committee notes that there will be an upgrade of the platform to Windows 7, and a refresh of the Assembly's PCs, which are planned for 2011.

RECOMMENDATION 21

4.94 **The Committee recommends that the Legislative Assembly Secretariat when preparing and negotiating its next contract renewal with InTACT should negotiate the contract to obtain more preferable terms, in particular areas, such as internet speed.**

RECOMMENDATION 22

4.95 **The Committee recommends that the Legislative Assembly Secretariat review the option of outsourcing its ICT needs to another external provider if there are ongoing significant issues with internet speed and other ICT services following the upgrade of the platform to Windows 7 and the PC refresh.**

Reduction in gas and electricity usage

4.96 The Committee welcomed the reduction in gas and electricity usage as reported and inquired as to whether achievable targets had been reached or whether further improvement was targeted. The Speaker explained:

> I think a lot of this has come primarily from the work of our building manager, in particular, in simply improving the building management system. In terms of how much more we are going to be able to achieve in the future, I do not know. We do not have a specific target at this point, but there is a process of continuing improvement. We have seen it with the installation of the tinting on the windows upstairs. I imagine that will have a particularly noticeable effect in the coming summer. There are ongoing measures, but we do not have a specific target at this time.[196]

[195] Ms Val Barrett, *Transcript of evidence*, 4 November 2010, pp. 60–61.
[196] Mr Shane Rattenbury MLA, *Transcript of evidence*, 4 November 2010, p. 55.

Changes to the delivery of the financial processing function

4.97 The Committee discussed changes to the delivery of the financial processing function and the costs and benefits associated with the decision to bring the service back into the administration of the Secretariat from Shared Services to commence early 2010–11.

4.98 The Secretariat advised that the decision was predominantly based on the estimated cost of providing the service in house compared to the cost of having it outsourced, and that savings in the order of $150 000 a year are anticipated.

4.99 The function had originally been outsourced due to a loss of staff in 2007, the Assembly's system not being widely known, and a perceived risk in the likelihood of recruiting staff to learn a new system in a new organisation. The Assembly has now adopted the MYOB system which is widely used, and this has mitigated the risk faced previously in terms of recruitment of staff.

4.100 Other factors in the outsourced arrangement which influenced the decision to bring the function back in-house included:

- accessibility to records when responding to inquiries from creditors
- a recognition that the previous risk of losing key staff was still a risk [staff in Shared Services with knowledge of the Assembly's system can still be lost];
- some duplication of processing by the Assembly and Shared Services because the Assembly still required some financial resources in house, and
- that the Assembly, as a small agency, does not reap the benefits from the shared services' systems that perhaps have been necessary to support other ACT government agencies.[197]

---

[197] Mr Ian Duckworth, *Transcript of evidence*, 4 November 2010, pp. 55–56.

4.101 The Committee also discussed:

- advances by the Secretariat in terms of electronic delivery, for example, 'Daily on Demand'[198]
- the draft 2011 sitting calendar[199]
- risk management and internal audit[200]
- fair trade products[201]
- the Assembly's ICT Security Policy[202], and
- numbers of participants in school education programs and Speaker citizenship evenings [203].

Territory and municipal services portfolio

Shared Services

Post implementation review into the Shared Services Centre

4.102 The Committee sought clarification from the responsible Minister whether there had been a review of the shared services' arrangements in the ACT to ensure that the Territory is receiving: (i) the savings that were promised; and (ii) the level of service that was promised.

4.103 The Minister informed the Committee:

> The Expenditure Review and Evaluation Committee is currently undertaking a post implementation review into the Shared Services Centre. The Committee's work is for advice to Cabinet, and the finding of the review will be Cabinet-in-Confidence.
>
> In regards to the savings from the establishment of the Shared Services Centre, the member should note that the savings were incorporated in individual agencies' budgets and forward estimates through the 2006–07 Budget process. As such, those savings have been realised for the whole-of-Government budget. Details of adjustments to agency budgets are provided in the 2006–07 Budget Paper No. 3, Pages 98–101.[204]

---

[198] *Transcript of evidence*, 4 November 2010, p. 54.
[199] *Ibid.*, p. 58.
[200] *Ibid.*, p. 57.
[201] *Ibid.*, p. 62.
[202] *Ibid.*, pp. 62–63.
[203] *Ibid.*, p. 64.
[204] Mr Jon Stanhope, Response to QToN (No. 21), 25 November 2010.

InTACT storage options

4.104 The Committee explored complaints received that pertinent information was not available on government websites, in particular ACTPLA. The Committee understands that this was likely to be due to the cost of storage levied by InTACT to agencies.

4.105 InTACT advised that it was working with ACTPLA and other agencies about storage options, on different tiers of storage and different pricing for storage options.[205]

Internet speed

4.106 The Committee sought clarification on whether a problem of slow internet speed was specific to the Legislative Assembly or across government, and any measures taken to address the problem.

4.107 InTACT advised that it was a general problem across government relating mainly to some ageing hardware. The problem was being addressed by a network refresh, with new equipment to be installed in a series of upgrades, which should facilitate an improvement in internet speed over the next few months.[206]

Salary information on the W drive

4.108 The Committee discussed the security breach that occurred in May 2010 concerning ACTPS employee salary information stored on the W-drive. The Chief Executive of the Department of Territory and Municipal services advised:

> ...the problem that occurred with the W drive. Of course, we were disappointed about that and we took some remedial action to rectify the problem. It was not as successful initially as we had hoped. However, we then addressed it. We sought the assistance of an outside IT security firm—I think that is the terminology—and I think the name of that contracting firm has been made public—WalterTurnbull.[207]

4.109 The Committee inquired whether the report by WalterTurnbull, of a review into the incident, contracted by the Government, had been finalised. The

---

205 *Transcript of evidence,* 25 November 2010, p. 147.
206 *Ibid.*, pp. 147–148.
207 Mr Gary Byles, *Transcript of evidence,* 25 November 2010, p. 152.

Executive Director of Shared Services informed the Committee that the report was in the management comment phase, and had not yet been finalised:

> Some of the recommendations from that review were to have ongoing audits and controls around the W drive, but some of the more comprehensive controls would be to either abolish the W drive or have a fully electronic records management system that could cope with the records that are in the W drive and actually keep appropriate permissions in place. Some of the larger recommendations are still under consideration. Some of the more immediate ones, such as audits and tracking of what is in the W drive and permission controls, are already in hand.[208]

4.110 The responsible Minister advised that whilst no firm date had been set for finalisation of the Report, it was expected to be finalised by February 2011. As to whether the Report will be publicly available, the Minister stated:

> Having not seen the report, I unable to comment on the content at this stage. As I have previously stated, if the Government is able to release the report it will do so.[209]

Cyber security for ACT Government websites

4.111 The Committee requested information on measures taken to secure ACT government websites from hackers. The Director, Planning and Development advised that the InTACT security team uses cyber security standard best practice:

> So all of our standard patching, standard management of our web systems, is of the highest quality.[210]

4.112 The Committee asked if there had been any attempts to hack into ACT Government websites and was advised that monitoring systems provide reports every fortnight on the number of cyber attacks. These reports indicate that there are thousands of attempts a day, none of which have been successful to date. There are peaks and troughs and the peaks usually correspond with the Northern Hemisphere school holidays.[211]

---

[208] Ms Jill Divorty, *Transcript of evidence,* 25 November 2010, p. 152.
[209] Mr Jon Stanhope MLA, Response to QToN (No. 23 and 24), 25 November 2010.
[210] Mr Paul Ayers, *Transcript of evidence,* 25 November 2010, p. 154.
[211] *Transcript of evidence,* 25 November 2010, p. 155.

4.113 The Committee also discussed:

- a review of the shared services arrangement in the ACT [212]
- working relationships between InTACT and Canberra Connect [213]
- progress on ICT sustainability plan commitments[214], and
- the National Australia Bank issue concerning employee salary payments[215].

ACT Government Procurement Board

4.114 The Committee discussed at some length membership of the Board, in particular in relation to two current vacancies, and whether the number of Board members should be reduced. The Deputy Chief Executive of TAMS explained that there are requirements for different sets of skills on the Board and the current membership works well because it provides flexibility for the Board to secure specific skills for particular procurements:

> When we have a large capital program, specific skills, particularly constructions skills for example, can be quite difficult to find. So we might have a membership vacant for a longer period of time while we seek those suitable skills. But in general it works very well. [216]

4.115 Further, in relation to the reappointment of a Board member, the Committee asked whether annual reports should disclose when board members are appointed and the period of appointment. The Minister for Territory and Municipal Services responded:

> The Chair's Report noted that Ms Fielding was reappointed on 1 May 2010. Although not mentioned in the Annual Report, the reappointment was for one year and Ms Fielding's term expires on 30 April 2011. The Board considers that it complied with the Chief Minister's Directions in preparing the 2009–10 Annual Report.[217]

---

[212] *Transcript of evidence,* 25 November 2010, pp. 148–150
[213] *Ibid.*, pp. 150–152
[214] *Ibid.*, pp. 146; 154.
[215] *Ibid.*, pp. 153–154.
[216] Ms Sue Morrell, *Transcript of evidence,* 25 November 2010, p. 158.
[217] Legislative Assembly for the ACT, Response to Supplementary Question (No. 24) to the Minister for TAMS, Standing Committee on Public Accounts, Inquiry into Annual and Financial Reports 2009–10, 25 November 2010.

RECOMMENDATION 23

4.116 **The Committee recommends that the *Chief Minister's Annual Report Directions* be amended to require authorities with a governing or advisory board to disclose when board members are appointed/reappointed and the period of appointment/reappointment.**

4.117 The Committee also discussed the:

- Government response to the Committee's report inquiring into ACT Government procurement[218], and
- Expenditure Review and Evaluation Committee's review of government initiatives[219].

Director of Territory Records

4.118 The Committee sought advice on action being undertaken with respect to electronic records, and the recommendation of the *Review of the Operation of the Territory Records Act 2002*[220] that electronic records should be managed by the actions of agencies rather than through legislation.

4.119 The Director of the Territory Records Office (TRO) advised that the Office is working very closely with agencies, in the first instance to look at the systems they are planning to introduce or that are in place, to assess what can be done to make existing systems more robust so that they meet the requirements for records under the provisions of the Territory Records Act. The Office is also looking at initiatives such as digitisation and conversion of records.

4.120 The Committee inquired about less traditional records, such as the promotion of government events on Facebook. The Director of the TRO noted that the TRO was aware that government information on social networking sites needed to be captured:

---

[218] *Transcript of evidence,* 25 November 2010, pp. 156–157

[219] *Ibid.*, pp. 158–159

[220] The report of the *Review of the Operation of the Territory Records Act 2002* was tabled in the ACT Legislative Assembly on 1 July 2010.

> …over the next year or two, we will need to make more progress, just to make sure that we are capturing this information on behalf of government.[221]

4.121 The TRO is also having a conversation with agencies that use social networking sites and noted that the challenges faced with these less traditional records is a common challenge across all jurisdictions in Australia.

Tourism, sport and recreation portfolio

Australian Capital Tourism—Chief Minister's Department

Tourism policy and services

4.122 The Committee discussed the promotion of tourist attractions such as the villages of Hall, Pialligo and Tharwa to local residents. The Minister for Tourism, Sport and Recreation advised that this does not fall under the definition of tourism which requires travel of at least 40 kilometres. These villages however do feature in Australian Capital Tourism's external publicity and in this way are also promoted to ACT residents. The Minister added:

> In the context of Australian Capital Tourism's role in marketing Canberra, obviously a number of our publications and information, consumer information, are distributed universally. So it is available and Canberrans obviously avail themselves of the variety of tourist attractions that are available.[222]

4.123 The Committee further discussed the role of Tharwa as a tourism destination and the Minister advised that proposed tourism plans for Tharwa will include its promotion as a gateway to the Namadgi National Park.[223]

4.124 In the context of international tourism promotion and the marketing activities undertaken by Australian Capital Tourism, the Minister advised that the ACT is promoted internationally mainly through Tourism Australia, and the ACT also attends annually the Australian Tourism

---

[221] Mr David Wardle, *Transcript of evidence,* 25 November 2010, p. 160.
[222] Mr Andrew Barr MLA, *Transcript of evidence,* 30 November 2010, p. 184–185.
[223] *Transcript of evidence,* 30 November 2010, p. 186.

Exchange which has a direct relationship with the eastern and western module buyers and sellers. However, the Minister added that:

> ...in terms of direct-to-consumer marketing overseas, we are not doing that at this point in time.[224]

4.125 The Minister added that in Australia, state and territory tourism authorities have primary responsibility for domestic marketing and Tourism Australia has primary responsibility for international marketing. Some of the larger jurisdictions devote some resources to international marketing, but the ACT is too small to do this. ACT consumer marketing is also based on destinations that have a direct flight into the Canberra airport, with a current focus on New Zealand as Australia's biggest international tourism market. The Minister further added:

> We have been working with Tourism Australia and certainly at the last two tourism exchanges I have met with our representatives in the New Zealand market, gearing up to and off the back of direct flights from New Zealand into Canberra airport.[225]

4.126 The General Manager of Australian Capital Tourism advised that the China market is predominantly group travel focussing on duty free shopping experiences, which is not available in the ACT. In terms of duty free shopping experiences, the General Manager commented:

> We do not have that type of product and it is not high yield; it is not something that, for the ACT, would be a strength for us.[226]

4.127 The General Manager explained that the China market is shifting and will, over time, evolve into a freer independent traveller market, but there is still a long lead time for the evolution of that market. Further, in her opinion, the ACT needs Tourism Australia to take the lead on fostering this market development as it has substantial budget for this purpose.

4.128 The Committee discussed the number of visits to the Visit Canberra website, noting the change from hits to visits as a more robust measure of the website's success and conveyed its congratulations on the increasing level of interest in the website.

---

[224] Mr Andrew Barr, MLA, *Transcript of evidence,* 30 November 2010, pp. 184–185.
[225] *Ibid*., p. 187.
[226] Ms Simonne Shepherd, *Transcript of evidence,* 30 November 2010, p. 187.

4.129 The Committee noted the seasonality of the statistics and suggested that a pictorial representation using graphs of the seasonality and the trends in website visits would assist readers.[227]

RECOMMENDATION 24

4.130 **The Committee recommends that Australian Capital Tourism incorporate graphs into future annual reports, where appropriate, to provide a pictorial representation of seasonality and trends in terms of website visits.**

4.131 The Committee also explored Australian Capital Tourism's response to the recommendation of the Loxton Review that 'Brand Canberra' be further developed. The Minister advised that in his view, there was considerable merit in having a whole-of-government branding exercise and that the centenary year would provide the appropriate launching pad for a revitalised branding city wide. The Minister emphasised that promoting a lifestyle in the city through city-wide branding was also important in retaining young people:

> It is as much about selling a lifestyle in the city. I think there are some powerful currents at play when it comes to the marketing of other Australian cities that we need to be aware of and we need to be competitive in that space, or we run the risk of losing a significant proportion of our younger population who are drawn away to other lifestyles.[228]

4.132 The Committee discussed progress in delivering the Centenary of Canberra, in terms of impact on tourism and its concern that the broader release of the final program would not be until late 2011 was an issue for business. The Minister advised:

> There are some decisions and some opportunities that cannot be finalised until next year. That was why the decision was taken to finalise the program in 2011. It still gives about, as I understand it, 14 months notice in advance…certainly no-one is raising with me any concerns in relation to the timetable of announcing the final program for 2013.[229]

---

[227] *Transcript of evidence,* 30 November 2010, pp. 189–190.
[228] Mr Andrew Barr, MLA, *Transcript of evidence,* 30 November 2010, p. 191.
[229] *Ibid.*

4.133 The Committee was interested in Australian Capital Tourism's involvement with Tidbinbilla and Conservation Volunteers Australia with regard to the development of an overnight premium nature based product at Tidbinbilla Nature Reserve. The General Manager explained that:

> It is basically part of the voluntourism movement, so people who are paying to be tourists but are volunteering their time as well on a variety of projects. That has been pretty much a trend worldwide.[230]

4.134 The Committee also discussed:

- the future of Cuppacumbalong as a tourist attraction[231]
- Australian Capital Tourism's partnership with the Australian Alps national landscape working group [232]
- the cost of Australian Capital Tourism's relationship with Tourism Australia[233]
- the conversion rate from website visits into actual business[234]
- the branding of the Canberra Convention Bureau[235]
- programmatic alignment following the transfer of tourism from the Department of Territory and Municipal Services to CMD[236]
- progress in the preparation of a government plan for the accommodation industry in the ACT[237]
- the promotion of AFL games to be played in Canberra, and their benefit to tourism[238]
- nature-based tourism and numbers of visitors to Namadgi and Tidbinbilla[239]
- the review of the "see yourself in Canberra" campaign[240], and
- the Ernst & Young report into the Autumn concept[241].

---

[230] Ms Simonne Shepherd, *Transcript of evidence,* 30 November 2010, p. 197.
[231] *Transcript of evidence,* 30 November 2010, p. 185.
[232] *Ibid.*, pp. 196–197
[233] *Ibid.*, p. 188.
[234] *Ibid.*, p. 190.
[235] *Ibid.*, p. 191.
[236] *Ibid.*, p. 192.
[237] *Ibid.*, p. 194.
[238] *Ibid.*
[239] *Ibid.*, pp. 197–198.
[240] *Ibid.*, pp. 198–199.
[241] *Ibid.*, pp. 199–200.

Exhibition Park Corporation (EPC)

4.135 The Committee discussed recycling by the public at events held at Exhibition Park in Canberra (EPIC). The Minister supported the initiative agreeing with a quote by the General Manager of the Packaging Stewardship Forum that the system can 'deliver effective away-from-home recycling systems in public places, with minimal contamination'.[242]

4.136 The Committee was further advised by the General Manager of EPC, that the public recycling system was now being used at all events. EPC had also recently introduced a food and organic waste recycling program and will be encouraging major event organisers to use the service.[243]

4.137 The Committee talked about the EPC management structure noting that it was governed by a board and queried why it was shown as having a reporting role though the Department of Territory and Municipal Services (TAMS) on its organisation chart. The General Manager advised that EPC staff are TAMS staff under the AAOs:

> We need to ensure that, with any human resources component, we meet the TAMS policies and procedures.[244]

4.138 However, the Committee queried this response noting that at page nine of EPC's annual report, it stated that EPC was governed by a Board. The Committee asked the Minister to advise which section of the *Exhibition Corporation Act 1976* placed TAMS in the EPC structure.[245] The Minister responded:

> Under the Administrative Arrangements 2010 (No. 1). Schedule 1—Ministers, Administrative Units and Functions—the administrative unit for Exhibition Park Corporation is the Department of Territory and Municipal Services (TAMS). Under section 10(1) of the *Exhibition Park Corporation Act 1976*, Exhibition Park Corporation (EPC) may make arrangements with the chief executive for the use of the services of public servants in the administrative unit under the chief executive's control.

---

242 *Transcript of evidence,* 30 November 2010, p. 202.
243 *Ibid.*
244 Ms Liz Clarke, *Transcript of evidence,* 30 November 2010, p. 205.
245 *Transcript of evidence,* 30 November 2010, pp. 205-206.

> Section 10(2) of the *Public Sector Management Act 1994* applies in relation to the management by the corporation of public servants who are the subject of an arrangement under subsection (1).
>
> Staff at EPC are provided by the administrative unit, TAMS. TAMS is included in the EPC structure for the reporting of management of staff only.[246]

RECOMMENDATION 25

4.139 **The Committee recommends that Exhibition Park Corporation (EPC) include in future annual reports an explanation with regard to its relationship with the Department of Territory and Municipal Services (TAMS). This should include specific reference to reporting and accountability pathways and staff administration.**

4.140 The Committee discussed the progress of work on the service station site which is owned by EPC. The General Manager advised that the facility had been demolished and the site was being remediated before hand over to the successful tenderer.

4.141 The Committee sought information on the cost of the remediation and queried whether its cost should have been borne by the previous long term lessee who was responsible for the contamination of the site. The General Manager advised that initial advice had been sought from the Government Solicitor on the matter:

> We are just waiting to pursue that. The early advice is that we are not in a position to be able to go back.[247]

4.142 The Committee discussed progress with a Gungahlin block set aside for low budget tourist accommodation. The Committee noted that the block concerned is now Block 799, having been split from the larger Block 751. The Executive Director of the Territory Services Division, TAMS, who is also a member of an interdepartmental working group for the project, advised that with regard to the timetable for construction:

> We would hope that in under 12 months we would have the construction on the site.[248]

---

[246] Mr Andrew Barr MLA, Response to QToN (No. 12), 30 November 2010.
[247] Ms Liz Clarke, *Transcript of evidence,* 30 November 2010, p. 209.
[248] Mr Phillip Perram, *Transcript of evidence,* 30 November 2010, p. 210.

4.143 The Committee noted, at the time of the hearing, the block was yet to be transferred and paid for. The Committee expresses its concern with regard to the length of time it has taken to progress the low budget tourist accommodation project.[249]

4.144 The Committee also discussed:

- recycling at the Folk Festival[250]
- change to the reporting indicator for comingled material recycled from tonnes to litres[251], and
- a reduction in water use and increase in energy use and greenhouse gas emissions[252].

Treasury portfolio

Department of Treasury

Community Insurance Scheme

4.145 The Committee discussed the Community insurance scheme and the quantum of savings available to community groups under the Scheme. The Executive Director of the Investment and Economics Division advised:

> We have negotiated a community insurance product. There are, in fact, two separate insurers who provide such a product. The product covers public liability insurance and volunteer accident cover. We understand from the community groups that have taken up this coverage that they get it at a price that is considerably cheaper than if they went it alone. [253]

4.146 The Committee heard that Volunteering ACT and other agencies are working with various community groups to determine which groups may be interested in obtaining coverage under the Scheme. The Committee was concerned that key arts organisations may not be aware of the Scheme and the Department of Treasury was unsure if the promotion managed by Volunteering ACT covered these sorts of groups.[254]

---

[249] *Transcript of evidence,* 30 November 2010, pp. 209-211.
[250] *Ibid.,* p. 203.
[251] *Ibid.*
[252] *Ibid.,* p. 204.
[253] Mr Roger Broughton, *Transcript of evidence,* 4 November 2010, pp. 1–2.
[254] *Transcript of evidence* 4 November 2010, p. 2.

RECOMMENDATION 26

4.147 **The Committee recommends that the ACT Government determine the coverage for the promotion of the Community Insurance Scheme and arrange for the Scheme to be promoted to any key community organisations that may have been excluded from the first promotion round.**

Affordable housing action plan

4.148 The Committee was interested to know how the Government delivers targeted affordable housing in the context of the current buoyant housing market with specific reference to delivery without distorting market prices. The Committee understands that the affordable housing action plan adopted by the Government in 2007 seeks to address this issue through a range of measures. The Executive Director of the Policy Coordination and Development Division explained:

> There are measures that are uniformly designed to improve the supply, but that would distort the market. There are other measures that are targeted at public housing—people on the bottom two income quintiles who are eligible for public housing. Then there are major steps to target people who are not eligible who will not enter into public housing. They are above the eligibility criteria but below median. That is the income range where you have rental stress. It is difficult for them to enter into ownership and it is difficult for them to acquire reasonable, affordable rental accommodation as well. There are measures there. Community housing is one example in that area.
>
> ...Some of the measures actually extend. This is particularly unique to the ACT. They extend below what would be traditionally the limits in other jurisdictions, not to mention the land rent scheme and the OwnPlace program that is run by LDA. Combine the two and you are probably looking at income which is almost 60 per cent of the median getting into homeownership.
> …the action plan that the government has adopted gets quite a recognition. We have inquiries from overseas as well about various aspects of it. It is a robust plan. I think the thing for us is to keep working on it.[255]

4.149 In relation to the 'OwnPlace' program, the Committee sought information on instances where, it is alleged that, some buyers have misused the program by selling a purchased property relatively quickly to make a profit. The Treasurer advised that the Department of Land and Property

[255] Mr Khalid Ahmed, *Transcript of evidence*, 4 November 2010, p. 3.

Services is considering the possibility of changes under OwnPlace to address this issue.[256]

4.150 The Committee was interested in the Department of Treasury's view with regard to the basis on which affordable housing prices are determined and how this determination is managed within the context of the demand and supply considerations of the general housing market. The Executive Director of the Policy Coordination and Development Division advised:

> Affordability is a social norm. That is how we would view it. There is a minimum that we as a society determine has to be consumed. There is no choice there. Well, there is choice, but, as a society, we would prefer not to have that. So that puts a floor on consumption.
>
> Above that, people can consume more. There is a fair bit of research that indicates that consumption of housing has been increasing. I think there is clear evidence of that. Again, it reflects the social preferences. It is very hard for us or any treasury to make a judgement on those preferences. They are preferences that people exercise in a free society.[257]

Government policy for lending and Community Housing Canberra (CHC)

4.151 The Committee discussed at length the Government policy for lending and the CHC (Community Housing Canberra) Affordable Housing initiative. The Government provides CHC with a loan facility in the form of a low interest loan, which is an initiative under the affordable housing action plan considered by government to be an appropriate and feasible option to support and build up the community housing sector. The interest charged on the loan is AAA-rated interest, which provides a financial advantage to CHC of almost two per cent compared to commercial lending. CHC considers the loan facility as very beneficial in supporting its supply of affordable housing, both for rental and for financing the market.[258]

4.152 The Committee sought clarification that CHC affordable housing products are sold at cost, plus a reasonable profit, and whether there was a Government subsidy within those prices. The Executive Director, Policy Coordination and Development Division explained that:

---

256 Ms Katy Gallagher MLA, *Transcript of evidence,* 4 November 2010, p. 4.
257 Mr Khalid Ahmed, *Transcript of evidence,* 4 November 2010, p. 9.
258 *Ibid.*, pp. 4–5.

> There is a subsidy for CHC, and that is in the form of the low interest loan. So the subsidy is there, but that will predominantly support, we would suggest, the rental side.[259]

Mortgage relief fund

4.153 The Committee noted that the Mortgage Relief Fund had a low number of approvals in the first year of its operation. The Committee was interested to know if this was due to the criteria being too stringent and whether the Government was planning to review the eligibility criteria. The Treasurer explained the purpose of the Mortgage Relief Fund:

> There are some very clear criteria. It is not to provide a loan to someone who is not managing their mortgage. It is not there to meet the needs of everybody who is experiencing housing stress with their mortgages. It is around getting people through what is a relatively short-term problem—that is, they have lost their job, they are sick, they have a good record of payment and they have exhausted every other means of financial support through their bank. There are quite a few hurdles to overcome, so it is not just there—[260]

4.154 In a climate of low interest rates, the Executive Director of the Policy Coordination and Development Division emphasised that the number of approvals may not be the best measure for determining the Fund's success:

> We have made every effort to make sure that it does not distort behaviour but is there to assist people if their circumstances are extraordinarily impacted or to provide them with a transition. The number itself may not be a good measure. We had very low interest rates during the time the scheme has been in operation here. I had contact from Care fairly recently when they were concerned whether the scheme would continue or not. They thought that, in an environment of increasing interest rates, they would see clients who might need support, and they were referring people as well.[261]

4.155 The Treasurer agreed that it was appropriate to review the criteria and on the timing of a review stated:

> I would not have normally thought we should review after one year, but considering some of the interest in the scheme, maybe we should bring it forward. I was hoping that we would have the scheme operating for two years before we reviewed it, and it has only been operating for one year.[262]

---

[259] Mr Khalid Ahmed, *Transcript of evidence,* 4 November 2010, p. 5.
[260] Ms Katy Gallagher MLA, *Transcript of evidence,* 4 November 2010, p. 10.
[261] Mr Khalid Ahmed, *Transcript of evidence,* 4 November 2010, p. 11.
[262] Ms Katy Gallagher MLA, *Transcript of evidence,* 4 November 2010, p. 12.

4.156 The Committee welcomes the Treasurer's willingness to consider a review of the Fund. Given the issues surrounding the Fund, the Committee believes that a suitable timeframe for a review would be after 12 months of operation.

RECOMMENDATION 27

4.157 **The Committee recommends that the Department of Treasury review the first year of operation of the Mortgage Relief Fund to determine the effectiveness of the Fund with particular reference to the appropriateness of the eligibility criteria.**

Superannuation provision account and ACT Government investment strategy

4.158 The Committee discussed at length the Government's investment strategy and how it applies the United Nation's Principles of Responsible Investment (UNPRI). The Director of the Investment and Economics Division explained that a potential investment is assessed to ensure it is a legal product and a legal business. That assessment incorporates a range of factors such as future earnings of a company and the sort of issues the company is involved in.[263] In response to the Committee's questioning about the requirements the Government placed on the decisions of its investment managers in terms of choice of investments, the Treasurer responded:

> This is the point that the public accounts committee is going to solve for governance now and into the future.
> ...
> I was very happy to have the matter come here because I do not think it is an easy one.[264]

4.159 The Committee notes that the Legislative Assembly referred the exposure draft of the Financial Management (Ethical Investment) Legislation Amendment Bill 2010 to it for inquiry and report. The Committee is currently inquiring into the Bill and will report as soon as practicable.

4.160 The Executive Director of the Policy Coordination and Development Division added:

---

263 Mr Patrick McAuliffe, *Transcript of evidence* 4 November 2010, pp. 15–17.
264 Ms Katy Gallagher MLA, *Transcript of evidence* 4 November 2010, p. 18.

> If there is a policy position in place that we are going to exclude certain industries and certain things then we will go and get that implemented. At the moment, that is not the policy.[265]

4.161 The Committee also discussed:

- public liability insurance for the hire of the Albert Hall[266]
- the provision of vendor finance for affordable housing to providers other than CHC[267]
- other Government initiatives to grow the community housing sector[268]
- the First Home Owner Grant and boost applications[269]
- the review of regulatory impact analysis arrangements[270], and
- debt exposure to floating interest rates[271].

ACTEW Corporation Limited

Delay in annual report

4.162 The Committee was interested in the reason for the delay in the preparation of ACTEW's annual report and was advised that it was completed on time but could not be provided to the Assembly for tabling until it had been released by the ACTEW board and shareholders at its annual general meeting. The Managing Director explained:

> We spoke with the Speaker's office about that. The fact was that we were trying to schedule it in time to have it lodged within the usual lodgement dates, and we could not get a date when we could get the board and the shareholders together before the day we held the meeting, and then we held the meeting and we tabled the annual report. The annual report was prepared and ready, but until the annual general meeting, it could not be released. We had the annual general meeting, I think, on the Tuesday, and we lodged the documents with the Speaker's office on the Thursday, and they were released on the Thursday night, I think—Friday morning *[8 October 2010]*.[272]

---

[265] Mr Patrick McAuliffe, *Transcript of evidence* 4 November 2010, p. 17.
[266] *Transcript of evidence*, 4 November 2010, p. 2.
[267] *Ibid*., p. 6.
[268] *Ibid*., p. 7.
[269] *Ibid*., pp. 12–13.
[270] *Ibid*., p. 13.
[271] *Ibid*., p. 18.
[272] Mr Mark Sullivan, *Transcript of evidence*, 4 November 2010, p. 29.

Update on the Murrumbidgee to Googong Water Transfer

4.163 The Committee discussed the Murrumbidgee to Googong Water Transfer, in particular construction of the pipeline. The Managing Director advised that the pipeline had received ACT environmental and development application approval, New South Wales (NSW) environmental and construction authority approval, and Commonwealth Public Environment Report (PER) approval. Several approvals have conditions, some of which must be met before construction can be started, and others which must be met before utilisation. The Committee understands that ACTEW is working through these conditions with the relevant authorities and agencies in the ACT and New South Wales.

4.164 The Committee understands that the procurement work for the project is proceeding and construction is expected to start in January 2011 on the ACT side, concentrating on works at the pump station and Angle Crossing.[273]

4.165 The Committee also discussed the status of land acquisition for easements for the pipeline route and was advised:

> Basically, we have 11 landowners who have agreed to voluntary acquisition of the easement. We are in active negotiation with about another six or seven where we anticipate voluntary acquisition. We have one landowner who we know will not agree to voluntary acquisition, and then we have another three or four who may.[274]

4.166 The Committee notes that ACTEW is waiting for clearance from the NSW Government to inform landholders of the commencement of a process of compulsory acquisition. Once that process starts, negotiation with regard to voluntary acquisition will no longer be an option:

> We are not holding it over anyone's head. Some will prefer to go compulsorily, but we think that some will probably decide it is time to negotiate... [275]

---

[273] Mr Mark Sullivan, *Transcript of evidence,* 4 November 2010, p. 50.
[274] *Ibid.*, p. 51.
[275] *Ibid.*

Update on the Tantangara Transfer

4.167 The Committee also discussed the Tantangara transfer project at length and understands that the ACT and NSW Governments are negotiating an intergovernmental agreement to cover the transfer of water between the two jurisdictions.[276]

4.168 The Committee noted that the ACT would make a decision to draw down on the Tantangara water account to sell some of the water on the temporary water market, only when it has more than sufficient water for its own use. The cost of drawing down the water will be finalised in the commercial agreement with Snowy Hydro, the largest element of that commercial agreement being the lost opportunity cost for Snowy Hydro in energy production.[277]

4.169 The Committee further discussed the release strategy and any environmental impact in releasing the water into the Upper Murrumbidgee. The Managing Director commented:

> We are working closely with the Upper Murrumbidgee catchment group. From their perspective, they only see this as positive for the river.[278]

Review of sewerage system (scheme to expand water recycling)

4.170 The Committee discussed the use of non-potable water, and the strategies developed by ACTEW for the expansion of water recycling schemes to achieve the target of 20 per cent by 2013 from 13.6 per cent in 2009-10.[279]

4.171 ACTEW's Executive Manager—Water, advised that a consultant had been engaged to assess opportunities available to increase the use of recycled water and that the option:

> ...we preferred was to put a recycling pipe from lower Molonglo up through Belconnen, connect it up to Southwell Park so we could utilise existing ovals and parks along the way and then ultimately connect it to the Molonglo development.[280]

---

[276] ACTEW Corporation Limited. (2010) *2009-10 Annual Report*, p. 10.
[277] Mr Mark Sullivan, *Transcript of evidence*, 4 November 2010, p. 31.
[278] *Ibid.*, p. 32.
[279] ACTEW Corporation Limited. (2010*) 2009-10 Annual Report*, p. 11.
[280] Mr Ross Knee, *Transcript of evidence*, 4 November 2010, p. 35.

4.172 Noting the potentially high cost of pumping water uphill from the Lower Molonglo to Belconnen, the Committee asked if a cost-benefit analysis of the project was available. The Managing Director informed the Committee that the Department of Environment, Climate Change, Energy and Water's *think water, act water* strategy team was considering doing a cost-benefit analysis. The Managing Director added:

> How those potential sources of water that we use impact on the existing cap or on sustainable diversion limits in the future is something which is going to have to come into the equation.[281]

RECOMMENDATION 28

4.173 **The Committee recommends that the Department of Environment, Climate Change, Energy and Water conduct a cost-benefit analysis of the proposed Lower Molonglo to Belconnen recycled water pipeline.**

Murray Darling Basin (MDB) Plan

4.174 The Committee discussed at length the Murray Darling Basin draft plan and its impact on the ACT. In relation to sustainable diversion limits for the ACT, the Managing Director firstly noted that ACTEW's responsibilities will be an operational response to whatever decision the Government will make when the plan is finalised and implemented. In that context, ACTEW recognises the significant role the ACT plays in the Basin at its head, and as its largest population base, and supports the need for a plan. The Managing Director commented:

> ...the Murray-Darling Basin problem, which I describe as a wicked problem; it has no easy or good answer; it is working out the least worst answer for everybody—is a must. The only worse result would be a collapse of the whole process, which I think is where the Assembly reached the other day. I think you got there in a good way. So we have basically provided and continue to provide technical advice to the department in terms of its participation in the Murray-Darling Basin Authority's discussions and fora. We attend the fora that we attend as observers and have our say.[282]

[281] Mr Mark Sullivan, *Transcript of evidence*, 4 November 2010, p. 36.
[282] *Ibid.*, p. 38.

4.175 If a sustainable diversion limit is accepted as a total constraint on water usage, there is a possibility that the limit allocated to the ACT would not sustain the ACT Government's water usage policy. The current policy is that the ACT should have sufficient water storage to allow usage to restrict mandatory water restrictions to a one-in-20-year event. The Managing Director advised:

> If that remains government policy and we had a sustainable diversion limit which could not sustain that policy, the only real answer would be to either utilise existing water purchased through, say, the Tantangara scheme or to utilise further water purchases.[283]

4.176 The Committee sought clarification as to whether ACTEW would make a submission to the Murray Darling Basin Authority on the plan. The Managing Director stated:

> We are not going to make a stand-alone submission because I think a stand-alone submission is really more on the policy issues. We will provide data and material. We have also offered the department our expertise, which they have accepted willingly. We have an interest in the government's submission being as accurate and factual as it should be, and we are sure about that, and then we are providing some policy advice for them to deliver, either take it or leave it.[284]

Capital works program and borrowings

4.177 As ACTEW was borrowing large amounts of funds for its various capital works projects, the Committee inquired as to whether there had been any rethinking of the idea of ACTEW paying a 100 per cent dividend to the Territory. In the current circumstances, the requirement to pay this dividend can drive up the costs of borrowing for ACTEW.

4.178 The Managing Director told the Committee that, at the request of ACTEW, the Treasurer had commissioned a review of the dividend policy which was being conducted by the Department of Treasury. The Treasurer advised that the review report should be completed soon, possibly in time for next year's budget.[285]

---

283 Mr Mark Sullivan, *Transcript of evidence*, 4 November 2010, p. 39.
284 *Ibid.*, p. 42.
285 *Transcript of evidence*, 4 November 2010, pp. 29–30.

RECOMMENDATION 29

4.179 **The Committee recommends that the Treasurer inform the ACT Legislative Assembly on the outcome of the Department of Treasury's review of ACTEW Corporation Limited's dividend policy.**

4.180 The Committee also discussed:

- the enlargement of Cotter Dam, with specific reference to safety on site[286]
- the Greenhouse Gas Abatement Strategy, with specific reference to ACTEW's consideration as a signatory to a sector agreement under the new climate change legislation[287]
- water demand modelling and water restrictions[288]
- the population threshold that ACTEW's water security assets would sustain[289], and
- ACTEW's community sponsorship budget[290].

Rhodium Asset Solutions Limited

4.181 The Committee sought an update on progress with regard to the implementation of the winding down of Rhodium. The Under Treasurer told the Committee:

> During 2009-10 there was significant work on the wind-down. In July 2009 the government fleet was finally transferred to the SG Fleet and then the Actew fleet was novated across to Actew. The residual activity for 2009-10 was the removal of all of the major operating leases, so the heavy operating leases that were largely held by TAMS. They were moved to TAMS on 1 July 2010. Also during 2009-10 there was a contract entered into for the novation of the novated fleet business from Rhodium to Toyota Fleet Management. Pretty much all of the major lines of business for the company were largely gone by the end of 2009-10.
>
> The actual transactions in relation to the novated fleet business occurred during July 2010 and will appear in the company's financial statements for 2010-11. As at this date pretty much all that remains with the company is one non-consenting novated lease. There were two at the beginning of this financial year

[286] *Transcript of evidence*, 4 November 2010, pp. 43–44.
[287] *Ibid.*, p. 38.
[288] *Ibid.*, pp. 47–48.
[289] *Ibid.*, p. 42.
[290] *Ibid.*, pp. 44–45.

> and that number has now gone down to one. That one remaining lease will be finalised in January 2011.
>
> There are 12 finalised lease debtors that are under legal action that are being wrapped up in the shell of the company right now. There are a few other miscellaneous outstanding invoices that are being pursued by the company and 11 other minor finalised debts that are being run by the company.
>
> There was also the transfer of some residual business into the Treasury portfolio during 2010-11. Those related to 20 finalised lease debtors. Six residual guarantees are held with Westpac, which are largely side lift trucks that are run under Melbourne ports. There is a rice growers Mack truck that has been transferred to Treasury to manage out the lease on and there are three mineral crushing leases that have also been transferred to Treasury to manage out the lease on. There are also video replay screens that have been transferred to Treasury.[291]

4.182 The Committee understands that the trading business of the company has been wound up with its 'de-TOCing' on 12 December 2010. The Company has continued with the finalisation of the wind-up in 2010–11 oversighted by a new public service board, or caretaker board, which is finalising residual lease and legal matters through the shell of the Company. The Committee was advised that residual lease and legal matters should be finalised by the end of the 2010–11 financial year and it is anticipated that the Company will be deregistered also by the end of 2010–11 financial year.[292]

4.183 The Committee was told that the Company cannot be deregistered until the residual legal issues are resolved. In the main, this is concerned with legal action to recover payment of amounts owing from a number of private customers (through the novated lease business) who have stopped paying their leases. The total cost of these debts is approximately $400 000.[293] The Acting Chief Executive stated:

> There are 10 main cases. They are former leaseholders. They have debts outstanding. Legal action is in train to try and get a judgement in the courts to

---

[291] Ms Megan Smithies, *Transcript of evidence*, 15 December 2010, p. 233.
[292] *Transcript of evidence*, 15 December 2010, p. 234.
[293] Mr Tony Hays, *Transcript of evidence*, 15 December 2010, p. 235.

> recover those moneys and we are expecting that we will be able to achieve that before June next year.[294]

RECOMMENDATION 30

4.184 **The Committee recommends that the ACT Government consider the cost benefit to the Territory of continuing to pursue the recovery of Rhodium Asset Solutions Limited outstanding debts.**

4.185 The Committee sought clarification on the recording of an operating loss of $5.344 million for 2009–10 compared with a budget loss of $1.776 million as specified in the 2009–10 Statement of Corporate Intent. The Under Treasurer explained:

> Originally, when the 2009-10 budget was put forward, we were hoping to wind up the company a lot earlier. Unfortunately, it was proving really difficult to get someone to take over particularly the novated lease business. So the company continued to operate for a full year, which was not envisaged at the beginning of the financial year. What is happening with the company during the wind-down phase is that you are not getting a revenue stream and you have still got the high fixed overheads of accommodation and staff, a debt recovery team and wind-down, you have still got your costs without necessarily revenue coming in. In fact, quite a lot of the business was divested at the beginning of the financial year with the ACT government business and the ActewAGL float business as well.
>
> ...
>
> That basically provides for pretty much all of the costs that we know of or that we can reasonably expect will occur in the wind-up of the company during 2010-11. I think it is worth noting at this stage that the company has also had a set of 2010-11 statements audited to provide an interim audit now that all of the other transactions have gone through, and they have been given a clean bill of health as well.[295]

RECOMMENDATION 31

4.186 **The Committee recommends that the Treasurer inform the ACT Legislative Assembly in twelve months time on progress of winding up Rhodium Asset Solutions Limited, in accordance with the *Corporations Act 2001*, by the end of the 2010–11 financial year.**

---

[294] *Transcript of evidence*, 15 December 2010, pp. 234–235.
[295] Ms Megan Smithies, *Transcript of evidence*, 15 December 2010, pp. 235–236.

4.187 The Committee also discussed:

- how the contract for MAXimus Solutions was determined and awarded in 2006[296]
- explanation for contracts awarded to external providers for legal and IT services[297], and
- inappropriate disposal of records from Rhodium Asset Solutions Ltd[298].

ACTTAB Limited

4.188 The Committee discussed the difficult and challenging operating environment that ACTTAB had experienced over the last twelve months. This included: (i) increased competition from corporate bookmakers in a de-regulated market; and (ii) increased volatility within the VIP market related to the payment of rebates. This has been further exacerbated by: (i) on the whole, a flat retail market resulting in an overall decline of racing turnover of 5.95 per cent; (ii) a requirement to pay industry product fees of $2.3 million; and (iii) ongoing legal proceedings in a number of jurisdictions concerning the application of race fields legislation, imposition of fees and consistency in application and methods of calculation, and the application of product fees. These proceedings have added to general uncertainty and industry volatility in ACTTAB's operating environment for 2009–10.[299]

4.189 In response to the reasons for a small dividend in 2009–10, the ACTTAB Chairman explained:

> We think it is a combination of a few things. There has been a natural downturn in the last 12 months in gaming and wagering. The position of the clubs, for example, in the ACT is not all that different from ours. They are facing similar challenges. Turnover is down for I think the same reasons that a lot of the clubs will be feeling it as well, but it has been compounded by the fact that the cost of doing business is very different this year than it was in previous years, with the payment of product fees to all jurisdictions where we use their vision to take bets on their product, as it is called. That is a fee that was not there some years

---

[296] *Transcript of evidence*, 15 December 2010, pp. 238–239.
[297] *Transcript of evidence*, 15 December 2010, pp. 239–240.
[298] *Ibid.*, pp. 242–243.
[299] ACTTAB Ltd. (2010) *2009–10 Annual Report*, p. 3; *Transcript of evidence*, 15 December 2010, pp. 221–223.

> ago and it ran to the tune in the last 12 months of almost $2½ million. That in itself is the biggest single slug that has affected the bottom line.[300]

4.190 The Committee noted, however, that in the 2010–11 Budget ACTTAB had forecast that its dividend would increase significantly in the outyears back to the $3 million mark, and sought an explanation for this. The Executive Manager, Finance and Business Services advised:

> The reason that will be achieved is that the funding that was linked through the racing development fund was abolished from 1 July 2010 and we are forecasting now a profit position going forward. The racing development fund ranged between $7 million and $7.6 million over the last two years, each of those years, so that money basically now is coming back into ACTTAB.
>
> ...
>
> We are forecasting a profit in this year, 2011, so it will be returning a dividend to the government. That dividend has also been increased. Our percentage has been increased.[301]

4.191 The Committee understands that the completion of a protracted tender process during 2009–10 with AmTote International has resulted in the acquisition of a new Spectrum betting system and terminals. The staged roll out of the new system will replace ageing technology and support the introduction of new products and bet types, for example, self-serve terminals. The roll out is expected to be completed by the first quarter of 2011 and will position ACTTAB to compete more effectively in the dynamic and evolving national wagering market.[302]

4.192 The Committee also discussed:

- the Independent Competition and Regulatory Commission (ICRC) review of the ACT racing industry[303]
- the different cost structures between a TAB and a corporate bookmaker[304]
- the impact for the ACT of the Federal Court's recent decision to uphold the right of NSW racing organisers to charge corporate bookmakers a fee based on turnover[305]

---

300 Mr Con Kourpanidis, *Transcript of evidence*, 15 December 2010, p. 221.
301 Ms Kaylene Snowden, *Transcript of evidence*, 15 December 2010, pp. 221–222.
302 ACTTAB Ltd. (2010) *2009–10 Annual Report*, p. 3; Transcript of evidence, 15 December 2010, pp. 226–232.
303 *Transcript of evidence*, 15 December 2010, p. 224.
304 *Ibid.*, pp. 227–228.

- views on the future of wagering and the impact of technology[306]
- the impact on ACTTAB's turnover of the loss of VIP customers[307]
- initiatives ACTTAB has in place to identify problem gamblers and the support services, or in part contributions, provided by ACTTAB to assist with problem gamblers[308], and
- the Australian National University's Centre for Gambling Research study of gambling and problem gambling in the ACT (contracted by the ACT Gambling and Racing Commission). The Study—*The Nature and Extent of Gambling and Problem Gambling in the Australian Capital Territory* surveyed 5,500 ACT residents in late 2009 and reported in November 2010 on the prevalence of gambling in the Territory. The only previous prevalence study on gambling in the ACT was undertaken in 2001[309].

Totalcare Industries Limited

4.193 The Committee notes that further to previous advice concerning the timeframe for the wind-up of Totalcare by the end of the 2010 calendar year[310] the Treasurer informed the ACT Legislative Assembly on 7 December 2010 that the outstanding issues requiring resolution were becoming more complex due to a combination of superannuation, tax and legal complications and for these reasons resolution of the residual issues by the end of the calendar year would not be possible. The Treasurer stated:

> ...
> Following its end-of-year audit for 2009-10, Totalcare was advised by its external auditors that it would not be able to be voluntarily wound up whilst there were any outstanding liabilities. This is just one of the requirements of the Corporations Act that a company needs to satisfy before it can be voluntarily wound up.

---

305 *Transcript of evidence*, 15 December 2010, p. 222.
306 *Ibid.*, pp. 226–229.
307 *Ibid.*, pp. 231–232.
308 *Ibid.*, pp. 223–224.
309 *Transcript of evidence*, 15 December 2010, pp. 222–223; ACT Gambling and Racing Commission (2010) ACT Gambling prevalence study— Summary of findings, November.
310 Select Committee on Estimates 2010–11, *Transcript of evidence*, 17 May 2010, pp. 263–264; Total Care Industries Ltd. (2010) *2009–10 Annual Report* .

> The outstanding liabilities of Totalcare relate to a combination of superannuation, tax and legal complications concerning a number of external superannuation funds and Com Super, which administers the Australian government's superannuation schemes. These complications have meant that the last cohort of settlements in relation to 135 ex-Totalcare employees has not yet been able to be finalised.
>
> ...
>
> Totalcare has continued to avoid the unnecessary high costs of litigation for all parties because of its robust and effective, yet ethical, approach to settlements. I can advise the Assembly that Totalcare hopes to have the legal issues and documentation finalised to a point where it will be possible to wind up the company. Subject to any externalities that are out of the board's control, the objective is for Totalcare to be wound up at the end of the 2010-11 financial year.[311]

4.194 Given the process of winding up the Company had been in train for a number of years, the Committee inquired as to why it had taken so long to identify the combination of superannuation, tax and legal complications. An official explained:

> ...
>
> What the time frame is in working out superannuation is that it is not until you lift up a rock that you know exactly what is underneath it.
>
> With regard to superannuation and legal liabilities, what has happened is that some people have rolled their superannuation from the AGEST fund where it was put originally instead of the PSS into an external fund, another fund, which they have the right to do. Unfortunately, once they do, we cannot legally get it back, which means that these people will be double-dipping.
>
> We legally have to put the funds into the PSS as part of the superannuation entitlement but they already have received those funds into their AGEST account and rolled them over. We legally cannot get them back. They are the problems we are having on the legal side of things. In the same way, when we put funding into PSS, they have rolled their funding into PSS from AGEST. Once it rolls out of PSS, the account is closed and we cannot reinstate them into PSS, which is a problem that we are having.
>
> At the end of the last financial year we did not have all the calculations done for the 2,000-odd people that were outstanding. The auditor said that, until we had a figure that we could take and rely upon, we had to leave the company open. We are in the throes of the last 15 calculations, which means we have all the

---

[311] Ms Katy Gallagher MLA, Statement to ACT Legislative Assembly, 7 December 2010, pp. 5796–5797.

> calculations done. We can transfer the liability to the ACT Treasury. It will continue with the ACT Treasury. That process will continue there.[312]

4.195 The Committee understands that one of the difficulties encountered in resolving the residual issue of superannuation has been contacting former employees to ensure those entitled to be compensated are compensated 'in accordance with the shareholders' wishes'.[313] The strategies enlisted to contact former employees have included: advertising in major newspapers, advertising in the NSW south coast local papers to capture retirees; seeking an exemption to access the ACT electoral roll and screening the Yellow Pages.[314]

4.196 Notwithstanding the comment from the Treasury official that former employees are compensated in accordance with the Shareholders' wishes, the Committee notes that compensation for superannuation entitlements is a statutory compliance requirement.

RECOMMENDATION 32

4.197 **The Committee recommends that the Treasurer inform the ACT Legislative Assembly in six months time on progress of winding up Totalcare Industries Limited, in accordance with the *Corporations Act 2001*, by the end of the 2010–11 financial year.**

4.198 The Committee is of the view that there are a number of valuable lessons that can be learned for future reference from the issues that have delayed the process of winding-up Totalcare Industries Limited and Rhodium Asset Solutions Limited. As noted in this report, and in previous reports, the Committee is aware that a number of difficulties have been encountered which have delayed the resolution of residual issues, in the main concerning legal matters and outstanding liabilities. The Committee believes that there is merit in documenting, for future reference, good practice and areas where improvements could be made.

---

312 Ms Sue Lebish, *Transcript of evidence*, 15 December 2010, pp. 255–256.

313 Mr Tom McDonald, *Transcript of evidence*, 6 February 2009, p. 132; *Transcript of evidence*, 15 December 2010, pp. 256–257.

314 *Transcript of evidence*, 15 December 2010, pp. 256–257.

RECOMMENDATION 33

4.199 **The Committee recommends that the Department of Treasury, in conjunction with representatives from Totalcare Industries Limited and Rhodium Asset Solutions Limited, examine and evaluate the practices employed by each of the companies in winding up their respective affairs with a view to identifying and assessing good practice, and areas where improvements could be made. This information should be presented in a format for future reference and be publicly available.**

RECOMMENDATION 34

4.200 **The Committee recommends that the ACT Government, in any future wind-up of a Territory-owned Corporation, should consider the benefits to the Territory of pursuing the residual issue of recovery of outstanding debts.**

ACT Insurance Authority (ACTIA)

4.201 The Committee noted the reported decline in the Authority's operating result from the budgeted amount in 2009–10, in the main 'due to a higher than expected ordinary claims expense'.[315] The Committee sought further information on what the higher than expected ordinary claims expense was attributable to. The General Manager explained:

> The ordinary claims expense increase is a result of changes in the assumptions made by our actuary to determine our liability. In particular, it results from a reduction in the discount rate that is used on claims to calculate our liability. The effect of that is to increase the ordinary claims expense.[316]

4.202 The Committee noted that further on in the Authority's annual report, the decline in the operating result from the budgeted amount was in the main 'due to a reduced discount rate on claims offset by better returns from investments'.[317] The Committee queried whether there was an inconsistency and was told:

---

[315] ACTIA. (2010) *2009–10 Annual Report*, p. 2.
[316] Mr John Fletcher, *Transcript of evidence*, 15 December 2010, p. 244.
[317] ACTIA. (2010) *2009–10 Annual Report*, p. 2.

> It is an increase of about $10 million, I think. If you look at our operating statement on page 13, the outcome is $57,488. It is an increase on the 2009 number and on our budget.[318]

4.203 Further, the Committee was told that the effect of the reduced discount rate was:

> It is a bit like the interest rate. It tries to anticipate what the future costs of claims will be. When that rate drops, it means basically you need to put more money aside to meet the costs of those claims in the future. That rate went from, I think, about 5.7 to 5.2. That has the effect of increasing our claims expense, along with some other economic factors such as inflation and greater risk margins due to some delays in making those future payments.[319]

4.204 The Committee sought an update on the progress of outstanding claims and legal action in relation to the 2003 Canberra Bushfires. In relation to the anticipated liability, the General Manager advised:

> To answer your question, I think the better table to look at is actually on page 43.
> ...
> You see at the top of that page it is a bushfire claims development table, which is a summary of all classes of bushfire-related claims. It is for the 2003 year. You can see the classes of insurance are standing timber, property, public liability and professional indemnity. If you go down to the bottom of the public liability column, the outstanding claim there is 69,466. That is the liability component of that claim. There are still some funds in some of the other categories that make the total for the bushfire, the number that is on the right there, 82,159.
> Those are basically development years and you can see the fluctuation. It came on one year later at 15½, then went to 46, then 193 and then back down to 96. Those numbers change, basically as the territory's understanding of its exposure has developed. The 193 that is there is probably what, at that point in time, we were advised by our reinsurers and our lawyers would be what they call a maximum possible loss. They look at all of the issues associated with liability and quantum and they put that number on it.
>
> What has happened over time, as we have been through a settlement conference and now in April this year when the court case commenced, is that our reinsurers have adjusted their view of what the liability is that may rest with the territory. Some of that has changed because we have settled with basically all of the parties who were against the territory, other than a group of plaintiffs called the Stacks plaintiffs, a group of 100 who banded together with Stacks, the law firm, and are putting a case against the territory in the court at the moment.[320]

---

318 Mr John Fletcher, *Transcript of evidence*, 15 December 2010, p. 245.
319 *Ibid*.
320 *Ibid*., pp. 246–247.

4.205 The Committee understands that there are approximately 104 outstanding claimants that are plaintiffs to the Stacks' action. All other parties who have made claims against the Territory have been settled.[321] The Committee was told:

> There are only the 104, I think, that are the Stacks group. We have settled with all of the other parties who were involved, which were NRMA, Suncorp, QBE and a group—the Tener family—who were separately represented. The only plaintiffs left in the case against the territory are the Stacks.[322]

4.206 As to when the Authority expects the litigation to be finalised, the General Manager commented:

> I had a discussion yesterday with some lawyers at the GSO about how the claim might play out. I think that most people would anticipate, whatever the result is, that there is likely to be an appeal process. That might take two or three years.[323]

4.207 The Committee also discussed:

- the Authority's risk management training designed to work with agency insurance and risk managers to support and promote good risk management practices[324], and
- the level of involvement of the Authority in the formulation of the proposed changes to the third party or workers compensation legislation[325]
- the success rate of recovery of funds from uninsured drivers at fault[326], and
- how the Nominal Defendant's 2008–09 qualified audit report from the Auditor-General had been addressed[327].

[321] *Transcript of evidence*, 15 December 2010, pp. 246–247.
[322] Mr John Fletcher, *Transcript of evidence*, 15 December 2010, p. 247.
[323] *Ibid*.
[324] *Transcript of evidence*, 15 December 2010, pp. 248–249.
[325] *Ibid*., pp. 249–251.
[326] *Ibid*., p. 252.
[327] *Ibid*., pp. 252–253.

5 CONCLUSION

5.1 The Committee has made 34 recommendations in relation to the evidence presented to it. The Committee would like to thank Ministers and accompanying departmental and agency staff, and members of governing boards, for their time and cooperation during the course of the inquiry process.

Caroline Le Couteur MLA

Chair

8 April 2011

APPENDIX A: Annual reports referred to the Committee for inquiry by the Legislative Assembly for the ACT[328]

- ACT Auditor-General
- ACT Government Procurement Board
- ACT Gambling and Racing Commission
- ACT Insurance Authority (ACTIA)
- ACT Legislative Assembly Secretariat
- ACT Long Service Leave Authority
- ACTEW Corporation Limited
- ACTTAB Limited
- Chief Minister's Department[329]
- Commissioner for Public Administration
- Department of Territory and Municipal Services[330]
- Department of Treasury
- Exhibition Park Corporation (EPC)
- Rhodium Asset Solutions Limited
- Totalcare Industries Limited

[328] ACT Legislative Assembly, Minutes of Proceedings No. 77, 23 September 2010, pp. 906–909.

[329] Those sections of the Chief Minister's Department Annual Report concerning ACT Executive (refer CMD outputs 1.1, 1.2 and 1.4); Business and Economic Development (refer CMD output 2.1); Default Insurance Fund and Work Safety Council (also refer CMD output 1.3 Industrial relations policy); and tourism policy and services (including Australian Capital Tourism).

[330] Those sections of the Department of Territory and Municipal Services Annual Report concerning Shared Services and Director of Territory Records.

APPENDIX B: Witnesses who appeared before the Committee

Thursday 4 November 2010

Ms Katy Gallagher MLA

Treasurer

Ms Megan Smithies, Under Treasurer

Mr Patrick McAuliffe, Director, Investment Branch, Department of Treasury (Dpt of Treasury)

Mr Roger Broughton, Executive Director, Investment and Economics Division, Dpt of Treasury

Mr Khalid Ahmed, Executive Director, Policy, Coordination and Development Division, Dpt of Treasury

Ms Kirsten Thompson, Director, Office of the Under Treasurer, Dpt of Treasury

Mr Mark Sullivan, Managing Director, ACTEW Corporation Limited

Mr Ross Knee, Executive Manager, Water, ACTEW Corporation Limited

Mr John McKay, Chairman, ACTEW Corporation Limited Board

Thursday 4 November 2010

Mr Shane Rattenbury MLA

Speaker

Legislative Assembly for the ACT—Secretariat

Mr Max Kiermaier, A/g Clerk

Ms Janice Rafferty, A/g Deputy Clerk and Serjeant-at-Arms

Mr Ian Duckworth, Manager, Corporate Services

Ms Sandra Lilburn, Manager, Committees Office

Ms Val Barrett, Manager, Hansard and Communications

Mr David Skinner, Manager, Strategy and Parliamentary Education

Tuesday 9 November 2010

Ms Katy Gallagher MLA

Minister for Industrial Relations

Ms Catherine Hudson, Deputy Chief Executive, Governance Division, Chief Minister's Department (CMD)

Ms Liesl Centenera, Director, Office of Industrial Relations, CMD

Mr Luke McAlary, Director, Public Sector Management Group, CMD

Ms Meg Brighton, Senior Manager, Office of Industrial Relations, CMD

Mr John Fletcher, General Manager, ACT Insurance Authority, Department of Treasury

Mr Phil Collins, Registrar, ACT Long Service Leave Authority

Thursday 25 November 2010

Mr Jon Stanhope MLA

Chief Minister

Minister for Business and Economic Development

Minister for Territory and Municipal Services

Mr Andrew Cappie-Wood, Chief Executive, Chief Minister's Department (CMD)

Mr Paul Ogden, Acting Chief Finance Officer, CMD

Ms Pam Davoren, Deputy Chief Executive, Policy, CMD

Ms Cathy Hudson, Commissioner for Public Administration, CMD

Mr Luke McAlary, Director, Public Sector Management, CMD

Mr Jeremy Lasek, Executive Director, Culture and Communications Division, CMD

Mr Ian Cox, General Manager, Business and industry Development, CMD

Mr Gary Byles, Chief Executive, Department of Territory and Municipal Services (TAMS)

Ms Jill Divorty, Executive Director, Shared Services, TAMS

Ms Sue Morrell, Deputy Chief Executive, TAMS

Ms Catriona Vigor, Acting Director, Goods and Services Procurement and Policy, TAMS

Mr David Wardle, Director, Territory Records Office, TAMS

Mr Paul Ayers, Director, Planning and Development, InTACT, Shared Services, TAMS

Tuesday 30 November 2010

Mrs Tu Pham PSM

ACT Auditor-General

Mr Bernie Sheville, Director, Financial Audits, ACT Auditor-General's Office

Mr Rod Nicholas, Director, Performance Audits and Corporate Services, ACT Auditor-General's Office

Mr Malcolm Prentice, Senior Manager, Financial Audits, ACT Auditor-General's Office

Tuesday 30 November 2010

Mr Andrew Barr MLA

Minister for Tourism, Sport and Recreation

Minister for Gaming and Racing

Ms Simonne Shepherd, General Manager, Australian Capital Tourism, Chief Minister's Department

Mr Gary Byles, Chief Executive, Department of Territory and Municipal Services (TAMS)

Ms Liz Clarke, General Manager, Exhibition Park in Canberra

Mr Phillip Perram, Executive Director, Territory Services Division, TAMS

Mr Greg Jones, Chief Executive, ACT Gambling and Racing Commission

Wednesday 15 December 2010

Ms Katy Gallagher MLA

Treasurer

Ms Megan Smithies, Under Treasurer

Mr John Fletcher, General Manager, ACT Insurance Authority and Fund Manager—Default Insurance Fund (CMD)

Ms Sue Lebish, Director, Totalcare Industries

Mr Con Kourpanidis, Chairman, ACTTAB Ltd

Mr Tony Curtis, Chief Executive, ACTTAB Ltd

Ms Kayelene Snowden, Executive Manager, Finance and Business Services, ACTTAB Ltd

Mr Tony Hays, A/g Chief Executive Officer, Rhodium Asset Solutions