LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

REPORT ON THE 1999 AUSTRALASIAN COUNCIL OF PUBLIC ACCOUNTS COMMITTEES 5TH BIENNIAL CONFERENCE

STANDING COMMITTEE FOR THE CHIEF MINISTER'S PORTFOLIO (INCORPORATING THE PUBLIC ACCOUNTS COMMITTEE)

Public Accounts Committee Report Number 16

March 1999

RESOLUTION OF APPOINTMENT

The Standing Committee for the Chief Minister's Portfolio was appointed by the Legislative Assembly on 28 April 1998 to examine any matter under the responsibility of the Chief Minister's portfolio. The Assembly also resolved that the committee perform the duties of a public accounts committee, specifically:

(a) to examine:

  (i) the accounts of the receipts and expenditure of the Australian Capital Territory;

  (ii) the financial affairs of authorities of the Australian Capital Territory; and

  (iii) all reports of the Auditor-General which have been laid before the Assembly;

(b) to report to the Assembly, with such comments as it thinks fit, on any items or matters in those accounts, statements and reports, or any circumstances connected with them, to which the Committee is of the opinion that the attention of the Assembly should be directed; and

(c) to 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.

MEMBERSHIP OF THE COMMITTEE

Mr Ted Quinlan MLA Committee Chair

Mr Trevor Kaine MLA Deputy Committee Chair

Mr Greg Cornwell MLA

Secretary: Bill Symington

1. BACKGROUND

1.1. The Australasian Council of Public Accounts Committees (ACPAC) formed in 1989 facilitates the exchange of information and opinion relating to public accounts committees and discusses matters of mutual concern.

1.2. ACPAC meets every two years in conference with a mid term meeting in the State which is to host the forthcoming conference. The 1999 conference held between 21 and 23 February in Fremantle was hosted by the Western Australian Public Accounts and Expenditure Review Committee.

1.3. It has been the practice for Auditors-General to attend ACPAC as observers and to take part in discussion on a range of issues before the conference. At this conference the Auditors-General or their deputies from all Australian jurisdictions, including the ACT Auditor-General, and the Auditors-General of Canada and the Canadian Provinces of Alberta, British Columbia and Manitoba, New Zealand, South Africa and the United Kingdom also participated.

1.4. This Assembly was represented by all members of the Chief Minister’s Portfolio Committee (incorporating the Public Accounts Committee).

2. COMMENT ON SELECTED CONFERENCE ISSUES

2.1. The conference format, a copy of which is at Appendix A, indicates the wide range and broad reach of topics discussed which were of direct relevance to, and particularly timely in terms of accountability for responsible governance, to Federal, State and Territory legislatures.

2.2. A number of the issues raised were of particular interest to this committee. While a consideration of these matters in depth is more appropriate for other circumstances, the committee has singled out several for specific comment as follows:

Competitive tendering and contracting out of government services (CTC)

2.3. Competitive tendering and contracting out of government services is now well established in Australia and elsewhere. However, the processes used by government to decide how to provide services, the processes used in selecting a particular provider, accounting for the economic relationship between the provider and the government and the accountability for the provision of the service can be matters of particular interest and concern to public accounts committees and, through them, to legislatures.

2.4. Governments can approach these matters in various ways. If they make assumptions that the private or public sector is the more efficient provider without adequate grounds they take a gamble at the expense of the taxpayer. Ministers are in a position of trust and have an obligation to act carefully in the disposition of taxpayers’ resources. Thus, the fundamental drive behind CTC ought to be improvement in the delivery of government services through reducing the costs of service delivery and increasing quality of output.

2.5. CTC is no less a feature of ACT Government operations than of other Australian governments. However, from the point of view of this committee, it is essential that outsourcing:

(i) ensure planning to meet the Assembly's accountability requirements
(ii) does not allow government agencies to develop a relationship of dependence on a private sector provider to the point where that provider obtains monopoly benefits
(iii) be flexible to allow the government and the Assembly to modify services as required
(iv) be accountable and with provision exists for probity and compliance.

2.6. The committee reaffirms that it has a responsibility to scrutinise contractual arrangements between government agencies and private service providers, a matter which will have focus during its current inquiry into service purchasing arrangements.

Commercial confidentiality

2.7. Commercial confidentiality has been an issue between the Government, this committee and the Select Committee on Estimates. It gave rise to draft Government principles and guidelines for the treatment of commercial information held by ACT Government agencies which were recently examined and reported upon by this committee.

2.8. The committee accepts there must be balance between the public's right to know and harm that may result from disclosure of commercial information but considers in most cases the public's right to know outweighs any claims to conceal information on the basis of commercial confidentiality. The committee sees no in-principle reason why there should not be full disclosure of all government contracts once all conditions have been finalised and they have been signed.

2.9. The committee considers that maintaining secrecy by confidentiality clauses in contracts is adverse to the Assembly's right to know and that confidentiality clauses should not be used unless there are specific approvals by the Assembly itself. Where the Government has a right to know, so should Assembly committees.

2.10. Having said this, the committee recognises that debate about public versus private interest inevitably revolves around principle and pragmatism and the outcome largely reflects the price placed on accountability as an important element of democratic governance. The committee considers it important that there be consistent, workable and unequivocal implementation of that principle.

Compliance auditing

2.11. The issue raised at conference was to assess what breaches of the law, as they affect the financial reports of government agencies, are material.

2.12. In accordance with Australian Accounting Standards general purpose financial reports are required to be materially correct. Information can be material by virtue of its size or quantity relative to its context and can also be material by virtue of its nature irrespective of whether its value is small.

2.13. The committee notes that what is material and what is not involves judgements by those preparing financial statements and by auditors and that these judgements can be complex when they involve breaches of the law which impact on the financial report. Thus there may be breaches of appropriation acts where expenditure may not have been authorised by the legislature, breaches of investment laws, breaches of borrowing without approval, the use of trust funds and so on.

2.14. It was further suggested by this committee that materiality is likely to be determined by who or what benefits from any non compliance matters identified by auditors.

Year 2000 problem (Y2K) - potential risks

2.15. The evidence is that in light of legal risks associated with the Y2K problem, occupational health and safety issues arising and attendant governmental responsibilities, there is a need for government to ensure that all the issues and implications for the public and private sectors are fully understood and, where appropriate, that contingency plans are developed.

2.16. The committee is aware that the ACT Government is a member of the Commonwealth/State Year 2000 Steering Committee and that the National Y2K Industry Marketing program, which is responsible for seminars and advertising, reports to the Steering Committee. The committee also notes that the Chief Minister's Department monitors ACT Government agency compliance programs.

2.17. Public accounts committees and Auditors-General have an important role in oversighting compliance and associated issues at government level. In that regard, the committee further notes that the ACT Auditor-General expects to report in the near future on the extent of Y2K compliance by ACT Government agencies. The audit report when presented to the Assembly will be reviewed by this committee. In particular, the committee will be interested to see to what extent agencies have addressed risks to public safety, revenue collection, fulfilment of statutory duties and so on.

Community service obligations - funding and administration

2.18. Community service obligations (CSOs) are non-commercial activities which government business enterprises (GBEs) are directed to pursue by government. From a business perspective they are activities which would not normally be undertaken in a purely commercial environment. However, from a government perspective they can relate to the equity objectives of government.

2.19. In Australia, CSOs have, in the past, been delivered through public service departments acting under Ministerial direction. CSOs were thus delivered as part of the implementation of government policy and accountability was direct from the government to the legislature.

2.20. CSOs are generally funded by cross-subsidies between users, specific levies on users, direct cash transfers to consumers, direct funding of enterprises, and acceptance of lower rates of return on capital. An issue is to what extent governments and GBEs can be held accountable for the funding of CSOs and, in this respect, direct funding provides greater transparency in the provision of these services. Direct funding also allows the objectives of government policy to be made more explicit and provides public scrutiny of the costs of implementing them.

2.21. A number of questions need to be considered by the Assembly and this committee. These include the level of CSO and subsidy information which should be provided and how to ensure that CSO information is available where there is a separation of the funder, purchaser and provider roles.

Cost of accountability

2.22. It is generally accepted that effective accountability mechanisms are integral to good governance. In the framework of government and public sector management it is the capacity to make officials and other office holders answerable for the manner in which they exercise the authority conferred on them by the legislature or government.

2.23. Traditional accountability focusses on an accountability sequence of reporting relationships consisting of a hierarchal sequence whereby individual employees are accountable to the chief executive who are then accountable to a minister who is accountable to the legislature which is ultimately accountable to the community as a whole.

2.24. These established conventions have been challenged in recent years with the introduction of public sector reforms accompanied by new standards and compliance frameworks and public sector agencies have to satisfy a range of political, economic and social objectives and operate to a different set of external constraints and influences.

2.25. Changes have also taken place in financial reporting and management with the introduction of accrual accounting and budgeting and output based management.

2.26. These changes have increased pressure on government agencies to report and comply with a range of accountability obligations in the areas of:

(i) ministerial responsibility and legislative reporting, viz, annual reports and parliamentary committees
(ii) independent reporting viz, the Auditor-General
(iii) statutory reporting viz, the Financial Management Act
(iv) performance agreements etc.

2.27. The Public Accounts Committee, as do other committees of the Assembly, relies on the quality and accessibility of information provided by officials by way of reports and evidence from formal hearings. The Assembly itself has a role in ensuring the regular scrutiny of public expenditures and, in the view of this committee, it needs to ensure that it has the ability to do this both directly in the Assembly in terms of the budget process and through the committees of the Assembly.

International organisation of public accounts committees

2.28. This conference was notable for the involvement of delegates from the Canadian House of Commons, from several Canadian provinces, from Papua New Guinea, New Zealand, the United Kingdom and South Africa.

2.29. On the initiative of the Canadian representatives it was agreed that ACPAC support efforts to establish an International Organisation of Public Accounts Committees (IPAC) with a number of objectives, including:

(i) promotion and development of a public accounts committee ethos
(ii) improving and promoting the public and parliamentary profile of PACs
(iii) furthering links between PACs
(iv) enhancing the skills of PACs
(v) developing public understanding of accountability principles and processes
(vi) improvement in accountability standards at an international level
(vii) attacking corruption within governments
(viii) developing international reporting standards

2.30. It was agreed that the Canadian House of Commons committee assume initial responsibility for developing the IPAC concept and that, to the extent that they are able, individual committees seek to be represented at a meeting in Ottawa in August 1999 to discuss the issues.

2.31. The proposed IPAC is relevant to the role of the Commonwealth Parliamentary Association and the committee has written separately to secretary of the Assembly branch of the Association about this development.

Ted Quinlan MLA
Chair

APPENDIX A

INDEX