



Standing Committee on Legal Affairs

Report on Annual & Financial Reports 2001-2002

Report No. 5

ACT Government Response

July 2003

19 August 2003

**Standing Committee on Legal Affairs
Report on Annual & Financial Reports 2001-2002**

Report No.5

Government Response

Introduction

The Annual Reports of all ACT Government agencies are referred to the Standing Committees of the ACT Legislative Assembly for examination and report.

The Standing Committee on Legal Affairs considered the following annual reports:

- the Department of Justice and Community Safety, 2001-02;
- the Australian Federal Police, ACT Policing 2001-02;
- the Director of Public Prosecutions, 2001-02;
- the Legal Aid Commission (ACT), 2001-02; and
- the Victims of Crime Support Program, 2001-02.

The Committee considered both the general compliance of the annual reports with the reporting directions issued by the ACT executive and the legislative requirements with regard to reporting and specific issues raised in the reports. The Committee held public hearings on the reports on Friday 22 November and Tuesday 17 December 2002.

Recommendation

2.11. The committee recommends that agencies give consideration to producing a separate document giving a general overview of their responsibilities and services and discussing broad issues with regard to their operations. This would remove a great deal of unnecessary detail from annual reports allowing them to concentrate on their proper function.

Response

Not agreed. It is necessary to provide some context in annual reports each year. This would be considered best practice for annual reporting and reports without this detail would be considered deficient. Appropriate context includes organisational structure; organisational purpose (including responsibilities and services); legislative context; and governance arrangements. However, agencies will be reminded that reports are primarily accountability documents. Agencies should therefore provide the appropriate level of detail necessary for an annual report, but could refer to websites or other documents as a source of further detail about agency operations.

Recommendation

3.8. The committee recommends that the ACT Police review its performance measures to ensure that they are capable of being reported against in a meaningful way and at an acceptable cost.

Response

Agreed. In recognition of auditing difficulties and other factors, the 2002-2003 Policing Purchase Agreement allowed for a review of all performance indicators to be conducted during the first three months of the current 2002-03 year.

New performance indicators have now been agreed to and have been included in a variation to the 2002-03 Agreement. The new indicators contain measurements that should minimise the potential for highly qualified audit reports.

The Committee was also concerned about ways of measuring the efficacy of police cases as they proceed to prosecution and noted the degree of difficulty in counting rejections by the DPP. The revised performance indicators for police prosecution briefs now relate to the number of briefs presented to the DPP; the number of briefs that are finalised by way of the offence proved in court; the number of briefs finalised by a not guilty finding or withdrawn; and the number of briefs otherwise resolved.

Recommendation

4.7. The committee recommends that the provision of free legal services by JACS to other ACT government agencies be reviewed:

to examine whether a service provided free of charge above a certain value, for example \$50,000, should be treated as a purchase of service by the recipient agency and reported accordingly;

to examine whether, specifically in the case of JACS, some control on the provision of free legal services needs to be imposed; and

to ensure that the recipient agencies provide explanations for any significant variations in those costs.

Response

Not Agreed. Whilst there has been some growth in demand for legal services it is the opinion of the Government Solicitor, as provider of those services, that there has been no unnecessary or frivolous use of that office. Requests for assistance for legal services are

soundly based so that if it is assumed that the lack of a formal costs charging system for services causes unnecessary requests for services, this appears not to be the case.

The proposal to use a charging regime to impose discipline on agencies may result in legal advice not being sought in relation to some activities where it should be sought. The introduction of a formal charging regime would impose significant overheads on the Government Solicitor's Office and agencies because of complicated accounting procedures which would need to be put in place to support change. Whilst this issue will remain under consideration this option has not been adopted because the experience of other jurisdictions would indicate the imposition of substantial additional costs with limited benefit.

The Committee also noted that the Government Solicitor's Office may refer work out to private firms and has asked whether the GSO absorbs the cost or bills the agency concerned.

The Committee's comments are noted. On occasion, matters of particular complexity arise where GSO considers it is necessary to go to firms or practitioners with particular expertise. There are also occasions where conflicts of interest preclude the GSO from representing all agencies or officers that may be involved in legal proceedings. The GSO does not refer work to other firms depending on workload.

The referring of work is an infrequent event, but will continue to occur where specialist advice is considered essential, or where conflicts of interest exist. The costs of referring work are not absorbed by the GSO. They are paid for either by the client agency, or out of the legal expenses vote.

Recommendation

4.12. The committee recommends that the Legal Aid Commission's annual report include a list of payments made to barristers in private practice, including the name of the barristers and the amounts each received.

Response

Not agreed. The Government agrees with the Legal Aid Commission who are concerned about the possible breach of privacy of clients and who do not agree to the disclosure of a list of payments to barristers in private practice.

Recommendation

4.14. The committee recommends that workload statistics for the ACT Supreme Court and the Court of Appeal, similar to that already provided for the ACT Magistrates Court, be provided in future annual reports.

Response

Agreed. The Supreme Court and Court of Appeal will provide the statistics for inclusion in the Annual Report.

Recommendation

4.15. The committee also recommends that these courts report on the results of matters that are finalised by them.

Response

Agreed. The Supreme Court and Court of Appeal will provide whole-of system outcome statistics for inclusion in the Annual Report.