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ACT AUDITOR-GENERAL'S OFFICE

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SPEAKER

Mr Shane Rattenbury MLA
Chair
Standing Committee on Administration and Procedure
ACT Legislative Assembly
London Circuit
CANBERRA ACT 2601

A.C.T. LEGISLATIVE ASSEMBLY COMMITTEE OFFICE	
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Dear Mr Rattenbury

Re: Inquiry into the appropriate mechanisms to coordinate and evaluate the implementation of the Latimer House Principles in the governance of the ACT

I am writing in response to your invitation to make a submission to the above inquiry.

I note that the members of the Legislative Assembly have endorsed and adopted the Commonwealth (Latimer House) Principles, which describe the relationship between the three branches of government and represent good practice in the governance of the ACT.

I acknowledge that appropriate mechanism should be in place to coordinate and evaluate the implementation of these Principles.

General Comments

My comments will focus on the issues that are of more relevance to the functions of the Auditor-General.

Section 10 of the *Auditor-General Act 1996* provides that:

> In addition to the functions given to the Auditor-General by this Act, the Auditor-General has the following functions:
>
> (a) to promote public accountability in the public administration of the Territory;
>
> (b) to audit annual financial statements of the Territory, departments and territory authorities under the Financial Management Act;
>
> (c) to audit the accounts and records in relation to any person, body or thing ascertained in accordance with the regulations;
>
> (d) to conduct performance audits in relation to any person, body or thing ascertained in accordance with the regulations;
>
> (e) any function given to the Auditor-General by or under any other law of the Territory; and
>
> (f) to do anything incidental or conducive to any of the Auditor-General's functions.

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The function described under 10(a) of promoting public accountability is consistent with several of the Latimer House principles, as discussed later in this letter. In addition, the performance audit function under 10(d) is very widely stated, and therefore enhances the ability of the Auditor-General to contribute to evaluating good governance, including the implementation of the Latimer House principles.

Comments on selected Latimer House Principles

I provide the following comments on how the Auditor-General can contribute to the implementation and review of selected Latimer House principle, using the numbering of the sub-paragraphs of the Principles as in Attachment B of the invitation to make a submission.

Pub[illegible]b-paragraph e)

The Auditor-General can review, as part of the performance audit function, processes for advising government on the appointment of public office holders, and whether the appointment process is based on merit and proven integrity.

Ethical Governance (sub-paragraph f)

The Auditor-General can review the existence and relevance of guidelines for public office holders with respect to conflict of interest and other aspects of ethical governance. However, it is not considered appropriate for the Auditor-General to review such guidelines for Ministers, MLAs or judicial officers, where there are other mechanisms set up specifically for such review.

Oversight of Government (sub-paragraph i)

This is the main area in which the Auditor-General can contribute to the implementation and evaluation of the Latimer House Principles. The Auditor-General contributes to corruption prevention and the accountability of government through its comprehensive powers of financial and performance audit. In addition, the Auditor-General has a role under the *Public Interest Disclosure Act (1994)* to receive and investigate allegations from members of the public about conduct by public officials.

The Auditor-General has adequate powers under its Act to contribute to this Latimer House principle. However, its budget is already under significant pressure, and if there are additional functions of review ascribed to the Auditor-General, (such as specific review of advertising, as discussed in another submission to an Assembly Committee) additional resources would be required.

The Auditor-General works in cooperation with other scrutiny bodies, such as the Human Rights Commission, the Ombudsman and relevant Government bodies with powers of investigation such as the Commissioner for Public Administration and departmental Audit Committees, to address governance issues. Such cooperation will often entail mutual agreement on which body is the more appropriate to investigate particular potential breaches of good governance. I assess that this cooperation is working satisfactorily.

The Auditor-General can also conduct a performance audit of these other scrutiny bodies to assess their performance and effectiveness.

ACT Legislative Assembly Committees

I also wish to make a general comment about the role of the ACT Legislative Assembly committees in keeping Governments accountable. In the ACT, many inquiries are conducted by Legislative Assembly Committees, or commissioned by the ACT Government to examine a number of matters of great importance to the ACT community. Inquiry reports can vary greatly in issue and scope and often include recommendations that aim to improve the accountability and administration of public sector agencies through improving operations and procedures.

In 2007, my Office examined agency implementation of recommendations from selected inquiry reports and found that current review and reporting procedures adopted by agencies are not adequate to provide assurance that recommendations arising from inquiry reports are implemented consistently across agencies and in a timely manner. Indeed, of the recommendations accepted from the three inquiry reports selected for review, 37% were not fully implemented more than three years after the release of the reports.

As part of this current Inquiry on the Latimer House Principles, the Committee may wish to consider the development of a more robust process to ensure that Governments implement the agreed recommendations of Assembly inquiries, to maintain the public confidence on the Committee inquiries as effective means to keep Governments accountable and transparent.

Conclusion

I agree that the Latimer House Principles provide a good framework for assessing effective governance of the ACT. The Auditor-General's Office (along with other scrutiny bodies) has a significant role in maintaining and evaluating conformance with many of the principles. However, adequate resources should be provided to independent scrutiny bodies to operate effectively without any undue constraints which may compromise their independence.

Yours sincerely

T. Pham

Tu Pham
Auditor-General
26 May 2009