

STANDING COMMITTEE ON ADMINISTRATION AND PROCEDURE

INQUIRY INTO THE REVIEW OF THE IMPLEMENTATION
OF THE LATIMER HOUSE PRINCIPLES IN THE
AUSTRALIAN CAPITAL TERRITORY
FOR THE 8TH ASSEMBLY

REPORT No. 7

October 2015

COMMITTEE MEMBERSHIP

Vicki Dunne MLA (Chair)

Chris Bourke MLA

Shane Rattenbury MLA

Brendan Smyth MLA

SECRETARIAT

Tom Duncan (Secretary)

Janice Rafferty (Assistant Secretary)

Amy Walters (Inquiry Assistant)

CONTACT INFORMATION

Telephone 02 6205 0173

Facsimile 02 6205 3109

Post GPO Box 1020, CANBERRA ACT 2601

Email tom.duncan@parliament.act.gov.au

Website www.parliament.act.gov.au

RESOLUTION OF APPOINTMENT

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In 1995 the Legislative Assembly for the Australian Capital Territory ('the Assembly') amended Standing Order 16, which established the Standing Committee on Administration and Procedure ('the Committee').

Standing Order 16 authorises the Committee to inquire into and report on, among other things, the practices and procedure of the Assembly.

TERMS OF REFERENCE

On 11 December 2008 (and amended on 23 February 2012) the Legislative Assembly passed a continuing resolution to endorse and adopt the Commonwealth (Latimer) House Principles on the Three Branches of Government as agreed by Law Ministers and endorsed by the Commonwealth Heads of Government Meeting, Abuja, Nigeria in 2003.

In that continuing resolution it states that, in the second year after a general election, the Speaker shall appoint a suitably qualified person to conduct an assessment of the implementation of the Latimer House principles in the governance of the ACT, with the resultant report tabled in the Legislative Assembly by the Speaker and that report be referred to the Standing Committee on Administration and Procedure for inquiry and report.

The first review for the 7th Assembly was conducted by Professor John Halligan from the University of Canberra in 2011 and can be found on the Assembly's website.

This review of the implementation of the Latimer House principles in the governance of the ACT for the 8th Assembly commenced in 2014 and was conducted by the ANZSOG Institute for Governance and Policy Analysis and can be found on the Legislative Assembly website at www.parliament.act.gov.au.

TABLE OF CONTENTS

SECRETARIAT	I
CONTACT INFORMATION	I
1. BACKGROUND AND PREPARATION OF REVIEW REPORT	5
2. CONDUCT OF THE INQUIRY	6
3. REVIEW RECOMMENDATIONS	7
4. SUMMARY OF SUBMISSIONS	9
5. SUMMARY OF PUBLIC HEARING	11
6. CONSIDERATION OF REVIEW RECOMMENDATIONS	12
7. COMMITTEE RECOMMENDATIONS	20

RECOMMENDATIONS

RECOMMENDATION 1

1. The Committee recommends that the Legislative Assembly reaffirm its commitment to the Latimer House Principles on the Three Branches of Government.

RECOMMENDATION 2

2. The Committee recommends that, in addition to the Legislature, the Executive and the Judiciary all branches of government continue to adhere to and monitor the implementation of the principles in all their activities.

RECOMMENDATION 3

3. The Committee recommends that, in relation to the assessment of the implementation of the Latimer House Principles in the governance of the ACT, as outlined in paragraph 2A of the continuing resolution, consideration be given to engaging eminent experts in the field of constitutional law as part of the review process scheduled for the 9th Assembly.

1. BACKGROUND AND PREPARATION OF REVIEW REPORT

1.1. Continuing Resolution 8A states that

(2A) In the second year after a general election, following consultation with the Standing Committee on Administration and Procedure, the Speaker shall appoint a suitably qualified person to conduct an assessment of the implementation of the Latimer House Principles in the governance of the ACT with the resultant report:

a) to be tabled in the Legislative Assembly by the Speaker; and

b) to be referred to the Standing Committee on Administration and Procedure for inquiry and report.

1.2. In June 2014 the Speaker approached various academics within the Canberra region. The University of New South Wales and the University of Canberra expressed interest in conducting the review.

1.3. In accordance with paragraph (2A) of the resolution the ANZSOG Institute for Governance and Policy Analysis at the University of Canberra was selected to undertake the assessment and provide its report to the Speaker by November 2014.

1.4. The reviewing team consisted of Professorial Fellow Mr Bill Burmester, Professor Mark Evans, Emeritus Professor Meredith Edwards AM and Richard Reid from the Institute of Governance and Policy Analysis at the University of Canberra.

1.5. In addition to establishing the review and order to assist the review team, the Clerk of the Legislative Assembly wrote to the following seeking their cooperation and assistance:

Speaker

Chief Minister

Leader of the Opposition

Leader of the ACT Greens

Chair of the Standing Committee on Public Accounts

ACT Government Head of Service

Auditor-General

Electoral Commissioner

Ombudsman

Chief Justice of the Supreme Court

Chief Magistrate of the Magistrates Court

1.6. The report forwarded to the Speaker on 4 February 2015 and was subsequently tabled in the Legislative Assembly on 10 February 2015 and pursuant to the resolution of the Assembly stood referred to the Standing Committee on Administration and Procedure for inquiry and report.

2. CONDUCT OF THE INQUIRY

- 2.1. Upon tabling of the report in the Assembly in February 2015, and pursuant to the resolution of the Assembly the report was referred to the Standing Committee on Administration and Procedure for inquiry and report.
- 2.2. The Committee invited the four authors of the report to appear at a public hearing into the Report held on 9 April 2015. Professorial Fellow Mr Bill Burmester appeared before the Committee.
- 2.3. In order to assist the Committee in its consideration of the report the Committee, on 23 April 2015 invited submissions from those areas mentioned in recommendations and in the transcript of the public hearing and received responses from the following:
 - Chief Minister*
 - ACT Human Rights Commission*
 - Auditor General*
 - Chief Justice of the Supreme Court*
- 2.4. The four submissions received were authorised for publication and uploaded to the Assembly's website.
- 2.5. The committee met 7 times to discuss the feasibility and implications of the report's recommendations.

3. REVIEW RECOMMENDATIONS

3.1. The report of the review team made 10 recommendations and are as follows:

1. Other jurisdictions such as South Australia and Victoria have in recent times established fully independent court administrations, and such a step in the ACT would give further clarity to the independence of the Judiciary within the Principles.
2. Given the ability and opportunity for members of the Assembly to introduce private members bills, the ACT would be well served if this opportunity was taken-up by non-executive members, and so broaden legislative deliberations in the Territory.
3. General acceptance of the proposition that adequate resourcing be provided to scrutiny bodies through the budget is more than simply adopting a formal process of consultation. To strengthen public confidence, there is a requirement on the government of the day to reach reasonable consensus across the political spectrum on an acceptable level of budgetary allocations to these bodies.
4. The ACT would do well not to remain complacent in the area of possible corruption, and seek out appropriate strategies to guard against the potential of a growing corruption threat to the good governance of the ACT. While an on-going stand-alone corruption commission may not be justified for a small jurisdiction, other measures such as providing investigative powers and resources to existing integrity bodies and adopting a mandatory review obligation by the Auditor in selected areas of administration could be considered.
5. A granular approach whereby the majority of audit findings could be “triaged” directly into rapid implementation while more contentious or resource intensive recommendations face greater political scrutiny would seem an appropriate strategy more in line with the Principles.
6. The approach to seek legislative approval through the whole of the Assembly to limit rights to judicial review (as in the case of Light Rail) seems a satisfactory and democratic safeguard to the exercise of such limitations in the ACT’s Westminster system of government and an appropriate way to avoid additional costs being imposed on ACT taxpayers.
7. Jointly establishing protocols between all parties in the Assembly on the time available for public consultation by the Assembly on, and Committee consideration of, new legislation may assuage concerns, and close the gap between current practice and a more generous and inclusive approach. This proposal could reasonably be adopted with little detriment to government business.
8. The ACT should consider other ways of attesting to the integrity of its system of government more independently of those with an interest in current systems and processes. Periodic reviews with specific terms of reference undertaken by eminent independent experts could be one possible approach.

9. The ACT would be well served if a wider range of citizen engagement strategies were considered and followed in the ACT drawing on innovations currently being deployed in the ACT public service.
10. The ACT Legislature should review the data needs of engaging in subsequent reviews of the implementation of the Latimer House Principles to ensure that they are driven by objectively derived data in addition to elite perceptions.

4. SUMMARY OF SUBMISSIONS

CHIEF MINISTER

- 4.1. The Chief Minister was pleased that the ACT Legislative Assembly had been recognised as a leading legislature in terms of governance and accountability and welcomed the overall findings of the Review¹.
- 4.2. In relation to the recommendations of the Review, the Chief Minister requested that the Standing Committee consider the following matters:
 - a) The Government's agenda to reduce red tape and duplication in the legislative process;
 - b) The already high level of community consultation and the need to carefully balance this against any proposed expansion of consultation arrangements;
 - c) The difficult economic environment when considering any proposal for increased funding for Committees.
- 4.3. The Chief Minister indicated that he was open to any suggestions to strengthen the accountability and integrity framework for MLAs and increase public confidence in elected representatives and would welcome any strategies or initiatives that encourage Members to introduce more Private Members' Bills.

AUDITOR-GENERAL

- 4.4. In relation to the comment of the Review team relating to the scrutiny of Auditor-General's reports, the Auditor-General noted that the Audit Office reports not only draw attention to areas where public administration could be improved but also, while not required to do so, includes recommendations on how improvements might be made.²
- 4.5. The Auditor-General supported the Review team's Recommendation No. 3 relating to appropriate resourcing of scrutiny bodies. She reminded the Committee of recent changes to the *Auditor-General Act 1996* to increase the range of audits that could be undertaken and to the method for the determination of the budget allocation for the Office. The Auditor-General noted that recent requests to increase the funding level for the Audit Office have not been successful.
- 4.6. Recommendation 4 related to potential corruption and the Auditor General noted that where matters of this nature had been raised, normal planned performance audits had been delayed. She observed that the Audit Office was to be given the responsibility of investigating corruption, then additional resources would be required.
- 4.7. The Audit Office shared the concerns of the Review Team regarding the Government's approach to responding to audit recommendations and was receptive to the "triage" approach to recommendations.

¹ Submission Chief Minister p 1

² Submission Auditor-General p 3

CHIEF JUSTICE

- 4.8. The Chief Justice noted the review report and advised that she had circulated the report to the other judges of the ACT Supreme Court but had nothing further to draw to the attention of the Committee.

ACT HUMAN RIGHTS COMMISSIONER

- 4.9. The Human Rights Commissioner advised that there seemed to be some confusion in the Review relating to the membership of the Human Rights Commission and the roles of the three commissioners.
- 4.10. Further to this, the Commissioner found some of the discussion confusing as it referred to her role being the only identified Public Office Holder not to be appointed as an Officer of Parliament, whereas she regarded her role as equal to that of the two other Commissioners.
- 4.11. With regard to the Review, the Commissioner welcomed the discussion on the Human Rights Act and declarations of incompatibility. The Commissioner suggested that due to the Commission's limited resources and jurisdiction there should be more accessible ways for citizens to enforce their rights.

5. SUMMARY OF PUBLIC HEARING

- 5.1. On Thursday 9 April 2015, the Standing Committee on Administration and Procedure held a public hearing the in the Kiribati Room, ACT Legislative Assembly.
- 5.2. The Committee invited the four authors of the report to appear at the public hearing into the Report. Professorial Fellow Bill Burmester appeared before the Committee.
- 5.3. The evidence ranged through the recommendations of the Review report with Members questioning Mr Burmester on several specific matters.
- 5.4. In relation to the issue of data requirements, the Committee asked the witness to provide some detail on exactly what the Review Team was seeking from recommendation 10. In response Mr Burmester indicated that while he believed the data existed it was not easily accessible forms. He went on to state that data, for example, that measures speed and efficiency of programs relative to other jurisdictions was something that could be considered.
- 5.5. He explained the practice of the Commonwealth Senate where the reporting requirements were specified so that the indicators that the Senate wished to investigate were provided.
- 5.6. Mr Rattenbury raised the suggestion from the Review Report that the ACT should consider establishing an anti-corruption body. Mr Burmester indicated that the best way to deter corruption is to be seen to be chasing it. He suggested that the Electoral Commission and the Auditor-General could, with additional resources, carry out in-depth investigations. It was a matter of looking for a hidden problem rather than assuming it simply doesn't exist.
- 5.7. The referral of legislation to Assembly Committees for inquiry and report was discussed with the suggestion being made that, with the increase in the size of the Assembly to 25, there may be a greater appetite for further consultation/discussion of proposed legislation. Anecdotal evidence was given that discussion and briefings were requested so close to the debate on the bill that in some instance debate was adjourned to allow for more "discussion". Mr Burmester suggested that perhaps committees could be used to avoid this situation in the future.
- 5.8. Dr Bourke asked Mr Burmester about the public perception of "politician initiated" public engagement over a public service context. Members were advised that there was a level of disenchantment with the political process unless there was a matter of specific interest to an individual. The meeting briefly discussed how to engage the community outside the usual 4-yearly voting requirement.

6. CONSIDERATION OF REVIEW RECOMMENDATIONS

6.1. In reviewing the report and its recommendations, the Committee was of the view that the review lacked the level of understanding of the role of the Legislative Assembly in the Latimer House principles and confused the Assembly with the role of the ACT Government in some instances. Statements such as "... The ACT should consider..." , "... the ACT would do well..." were considered unhelpful as to the intention of the recommendation.

6.2. The Review Team, in its report considered each of the "principles" in the following order:

Analysis of the 3 branches of government and their adherence to the principles
Challenges for public office holders
Ethical governance
Accountability mechanisms
Law-making processes
Oversight of government
Implications for future governance

The Committee considered the Review in the order presented and made observations on the discussion leading up to each of the Review's recommendations and commented on each individual recommendation. For each recommendation in this report there is discussion, recommendation and Committee comment.

ANALYSIS OF THE THREE BRANCHES OF GOVERNMENT AND THEIR ADHERENCE TO THE PRINCIPLES

6.3. The Review reflected on the implications of the Territory's subservient status to the Commonwealth³. It highlighted the retention of the Commonwealth Parliament's veto power over ACT legislation. It noted, however, that on the last occasion the Federal Government chose to express its objection to ACT legislation through judicial review rather than using its veto power.

6.4. The Territory's inclusion and position in the Council of Australian Government (COAG) process was considered by the Review to be "more or less irrelevant – at worst, the ACT's inclusion could be construed as a courtesy."⁴ The Committee was not of this view and did not agree with this statement.

6.5. The relationship between the judiciary and the executive raised no concerns and no evidence was given to suggest that this was a concern in the ACT.⁵ Tension however was observed in relation to administrative and resourcing responsibilities in the judicial system. It was noted that the relationship between the executive and the judiciary was "complementary and constructive"⁶.

³ Review p 13

⁴ Review p 14

⁵ Review p 16

⁶ Review p 16

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- 6.6. Of concern to the Review team was the lack of independence of the Court Registry which resides in the Justice and Community Safety Directorate with mixed reporting lines and management.

REPORT RECOMMENDATION 1—*Other jurisdictions such as South Australia and Victoria have in recent times established fully independent court administrations, and such a step in the ACT would give further clarity to the independence of the Judiciary within the Principles.*

- 6.7. COMMENT: This is a matter for the Executive and the Justice and Community Safety Directorate to consider however the Committee noted that very little evidence was presented to justify such a move with no significant issues raised.
- 6.8. The independence of parliamentarians and their freedom to carry out their legislative and constitutional duties without interference was not identified as raising any concerns with the Review team.

REPORT RECOMMENDATION 2—*Given the ability and opportunity for members of the Assembly to introduce private members bills, the ACT would be well served if this opportunity was taken-up by non-executive members, and so broaden legislative deliberations in the Territory.*

- 6.9. COMMENT: The Review report noted that there had been a decline in the 8th Assembly of the number of private Members' bills presented, however this is a matter for individual members of the Legislative Assembly. There are few impediments to non-executive Members of the Assembly putting forward private Members legislative proposals.
- 6.10. COMMENT: It should be noted that, unlike many other Australian jurisdictions, the Office of Parliamentary Counsel provides full legislative drafting services to non-executive members for principle legislation as well as amendments to Bills before the Assembly. However only Ministers can propose legislation that commits the Territory to the expenditure of monies.

CHALLENGES FOR PUBLIC OFFICE HOLDERS

- 6.11. The independence of the judiciary had been previously raised and the Review report noted that there had been a number of reforms to the practices relating to the appointment of the Chief Justice and the Chief Magistrate, security of tenure, appropriate levels of budget support, accessibility of decisions and disciplinary procedures.
- 6.12. In relation to statutory office holders, the review noted that the recent establishment of the positions of Officer of the Legislative Assembly granted to the Auditor-General, the Ombudsman and the Electoral Commissioner increased the real and apparent independence from the executive of these positions⁷.

⁷ Review p20

- 6.13. Paragraph (2) (e) (ii) of the Latimer House resolution states that “..measures may be taken, where possible and appropriate, to ensure that the holders of all public offices generally reflect the composition of the community in terms of gender, ethnicity, social and religious groups and regional balance.”. The Review identified the gender of several of the statutory offices and it was noted by the Human Rights Commissioner that it failed to recognise the other commissioners that made up the Human Rights Commission⁸: the Human Rights and Discrimination Commissioner; the Children and Young People Commissioner; the Health Services Commissioner; and the Disability and Community Services Commissioner.
- 6.14. The Review Report found the formal process for the annual budget allocation to the Auditor-General and the Electoral Commission as commendable but acknowledged that a degree of political compromise was required to ensure public confidence in the level of scrutiny of government was not jeopardised⁹

REPORT RECOMMENDATION 3—*General acceptance of the proposition that adequate resourcing be provided to scrutiny bodies through the budget is more than simply adopting a formal process of consultation. To strengthen public confidence, there is a requirement on the government of the day to reach reasonable consensus across the political spectrum on an acceptable level of budgetary allocations to these bodies.*

- 6.15. COMMENT: The Committee was reminded of the recent establishment of the Auditor-General and the Electoral Commissioner as officers of the parliament. As officers of the Legislative Assembly they now have a budget allocation process independent from other directorates and agencies.
- 6.16. COMMENT: The ACT Human Rights Commissioner expressed some dismay that the Commission had not yet been made officers of the parliament. The Committee however, felt that this matter is for the Executive to consider. The Standing Committee on Administration and Procedure in its Report No. 4 of 2012 entitled “Officers of the Parliament” did not go so far as to recommend that the Human Rights Commission be appointed as officers of the Parliament but did indicate that they came closest to meeting the requirements.
- 6.17. COMMENT: The Commissioner suggested that due to the Commission’s limited resources and jurisdiction there should be more accessible ways for citizens to enforce their rights.
- 6.18. COMMENT: It was considered that a different approach to determining the most appropriate method of allocating sufficient funds to scrutiny bodies should be investigated. One such approach discussed by the Committee was the allocation of a percentage of gross domestic product (GDP) to scrutiny bodies in a manner not dissimilar to the way aid budgets are allocated by the United Nations (UN).
- 6.19. COMMENT: An analysis of how scrutiny budgets are allocated in other jurisdictions, both local and international, may assist in the establishment of methods and benchmarks that could be adopted.

⁸ Human Rights Commission submission p 3

⁹ Review p 21

ETHICAL GOVERNANCE

- 6.20. The relatively small size of the ACT jurisdiction was cited as having a role in allowing instances of perceived corruption being discussed in public fora. Aside from election campaign funding there was little evidence to suggest that corruption was a major issue and that the need for an independent integrity commission was unnecessary.
- 6.21. The establishment of the position of the Commissioner for Standards and the Register of Lobbyists was thought to place the ACT ahead of other jurisdictions. It was felt, however that wider powers and authority to investigate could be fruitful¹⁰. In addition the ACT Public Service has a well established set of values and code of conduct with a legislative base and it was considered that the current arrangement of referral of matters to the police was satisfactory and appropriate.

REPORT RECOMMENDATION 4—*The ACT would do well not to remain complacent in the area of possible corruption, and seek out appropriate strategies to guard against the potential of a growing corruption threat to the good governance of the ACT. While an on-going stand-alone corruption commission may not be justified for a small jurisdiction, other measures such as providing investigative powers and resources to existing integrity bodies and adopting a mandatory review obligation by the Auditor in selected areas of administration could be considered.*

- 6.22. COMMENT: The report failed to convince the Committee that there was such a level of corruption in the ACT Public Service that would warrant the establishment of an “independent commission against corruption” with some commentators believing that such organisations in other jurisdictions had proved problematic and had in essence lost their focus as anticorruption bodies.
- 6.23. COMMENT: One selected area of administration that the report identified could be the way Members and Ministers comply with various determinations as this area of administration is always subject to frequent media scrutiny. The Committee has been made aware of a practice in New South Wales where their Auditor-General performs what they call a “review engagement” to assess whether a sample of Members complied with aspects of their Parliamentary Remuneration Tribunal determination. The review was designed to provide parliament with a limited assurance about whether a sample of 43 Members (for 2014) complied with the relevant determination. The review was less than a full audit and was not designed to detect all instances of non-compliance. So far the NSW Auditor-General has done 2 reports for 2013 and 2014.
- 6.24. COMMENT: These sorts of reviews into selected areas of administration may be something for the ACT Auditor-General to consider as a cost effective way to implement this particular recommendation of the Report.

¹⁰ Review p 24

ACCOUNTABILITY MECHANISMS

- 6.25. The scrutiny of the executive by the parliament occurs through a number of mechanisms. Most of these are common to other jurisdictions but in comparison the ACT processes are much richer¹¹. The proportional representation electoral system has delivered mainly minority governments and the Legislative Assembly has the power to structure its affairs to strengthen the scrutiny and accountability of the government.
- 6.26. Measures employed by Assembly include, among others, a generous allotment of time to question time, private members bills, well established committee system, and a full day allocation to private members motions.
- 6.27. The Review team identified that there were some perceived issues with the way the government responds to the recommendations of the Auditor-General. The practice is that the government will only provide a full response to an Auditor-General's report after the Standing Committee on Public Accounts conducts an inquiry into the report and tables it in the Assembly. It is felt that this process delays the response and only focuses on those issues that remain after the Committee's investigation.

REPORT RECOMMENDATION 5—*A granular approach whereby the majority of audit findings could be “triaged” directly into rapid implementation while more contentious or resource intensive recommendations face greater political scrutiny would seem an appropriate strategy more in line with the Principles.*

- 6.28. COMMENT: Agreed – suggest that the Auditor-General “prioritise” its audit recommendation to the Executive. Implementation of audit findings are a matter for the executive.
- 6.29. COMMENT: The Review Team noted that, in relation to judicial accountability, the reputation of the courts and the standing of judicial officers in the community was relatively high¹².

REPORT RECOMMENDATION 6—*The approach to seek legislative approval though the whole of the Assembly to limit rights to judicial review (as in the case of Light Rail) seems a satisfactory and democratic safeguard to the exercise of such limitations in the ACT's Westminster system of government and an appropriate way to avoid additional costs being imposed on ACT taxpayers.*

- 6.30. COMMENT: Noted

¹¹ Review p26

¹² Review p 28

THE LAW-MAKING PROCESS

6.31. A number of processes provide for the effectiveness of the law-making process in the ACT. The Standing Committee on Justice and Community Safety in a legislative scrutiny role assess all proposed legislation for compliance with the Human Rights Act 2004 and application of onus of proof matters as well as other issues in that committee's terms of reference. In addition the Legislative Assembly may refer any bill to a standing committee for inquiry and report. This process has been little used in the current Assembly and the Review Team considered this a lost opportunity to strengthening the law-making process.

REPORT RECOMMENDATION 7— *Jointly establishing protocols between all parties in the Assembly on the time available for public consultation by the Assembly on, and Committee consideration of, new legislation may assuage concerns, and close the gap between current practice and a more generous and inclusive approach. This proposal could reasonably be adopted with little detriment to government business.*

6.32. COMMENT: In his evidence before the Committee Mr Burmester reported that the Government believed that appropriate levels of consultation take place during the drafting and development process.¹³ Members of the Opposition expressed, through interviews with the Review Team, that this consultation is always through a "government lens"¹⁴ and that true independent consultation should occur.

6.33. COMMENT: The Assembly would have a role in this if standing orders were amended to ensure that sufficient time (whatever that has been determined to be) has elapsed between presentation and debate. The matter of referral of Bills to committee is at the moment reliant on a motion in the Assembly and a very small number are successfully referred. This seems to be more a matter of political will than openness to scrutiny.

6.34. COMMENT: Public consultation prior to the Bill being introduced is a matter for the executive.

OVERSIGHT OF GOVERNMENT

6.35. The Review Team found that there was a general reluctance toward the establishment of independent investigative bodies beyond the current arrangements in the Territory¹⁵ and warned that as such complacency was not appropriate.

REPORT RECOMMENDATION 8— *The ACT should consider other ways of attesting to the integrity of its system of government more independently of those with an interest in current systems and processes. Periodic reviews with specific terms of reference undertaken by eminent independent experts could be one possible approach.*

¹³ Transcript of evidence, p 9

¹⁴ Transcript of evidence, p 9

¹⁵ Review p 33

- 6.36. COMMENT: The committee notes this recommendation and considers that it would be useful to engage with eminent experts in the field of constitutional law as part of the review process slated for the 9th Assembly.

FUTURE CHALLENGES

- 6.37. The issue of citizen engagement with the government and the legislature was discussed in terms of participation in the democratic process. This included, in particular, the electoral system for the ACT which has delivered mainly majority governments that encourage more harmonious relationships and consensus building across the electorate.
- 6.38. The Review Report criticised the Legislative Assembly (and the government) for not being proactive in the area of citizen-centric governance.¹⁶ While acknowledging that there is more that can be done, the Review Team seemed reticent to suggest how this might be done.

REPORT RECOMMENDATION 9—*The ACT would be well served if a wider range of citizen engagement strategies were considered and followed in the ACT drawing on innovations currently being deployed in the ACT public service.*

- 6.39. COMMENT: The issue that confronts the Legislative Assembly in this area is the old adage that “you can take to horse to water but you can’t make him drink”. An area that can be improved on is the public participation in the committee process and relates more to publicity and awareness of the activities of committees. Much has been done already to make the proceedings and documents of the Assembly available, open and transparent.
- 6.40. COMMENT: Unfortunately no matter how the Office of the Legislative Assembly attempts to engage with the community it will always suffer from overshadowing by the Federal Parliament and the media’s obsession with “Canberra” as the seat of politics.

- 6.41. COMMENT: Note the amount already happening in the Assembly:

E-petitions
Public hearings of committees
Webstreaming
Daily on Demand, Committees on demand
Speaker’s briefing on radio ABC666
Publication of declaration of members’ interests and other documents
Community outreach
New Citizens welcome functions
Open day
Schools Civics education tours

- 6.42. COMMENT: Note the amount already happening in the government area :

Access Canberra
Fix my Street
Mobile Cabinet

¹⁶ Review p 36

*Chief Minister talkback
Have your say
Public hearings and community input to Estimates
Time to talk*

6.43. COMMENT: One way that the Assembly could consider to enhance community engagement is to use the Committee that deals with local council type matters (currently the Standing Committee on Planning and Territory and Municipal Services) in a way that enables constituents and MLAs to better deal with matters that arise on a regular basis. This option would entail the Committee convening a public hearing say, twice a year, to deal solely with constituent matters raised. Relevant Ministers (likely Territory and Municipal Services and the Minister for Roads and Parking but perhaps others) and their officials could be asked questions about matters raised in each of the 5 electorates by the relevant Members of those electorates. The hearings could last over, say, 5 hours and time advertised so that concerned citizens could attend the public hearings (or watch webstream) to hear their matters raised. In this way, the Assembly would be better able to engage with concerns raised by constituents, and would give local members a more meaningful role in that process.

PARTING SHOT (BY THE REVIEW TEAM)

6.44. The Review Team expressed the view that it had difficulty assembling an integrated and comprehensive set of objective data. It noted that while the data existed it was fragmented.

REPORT RECOMMENDATION 10—*The ACT Legislature should review the data needs of engaging in subsequent reviews of the implementation of the Latimer House Principles to ensure that they are driven by objectively derived data in addition to elite perceptions.*

6.45. COMMENT: When asked by the Committee what sort of data the review team had envisaged with this recommendation, Mr Burmester indicated that it was an issue of accessibility rather than lack of data. He expressed the view that the information existed but was not readily available and that the Legislative Assembly should consider requesting specific indicators from directorates and agencies to allow performance to be monitored through the annual reports.

6.46. COMMENT: The Committee was aware of the multitude of data collection reports the government was required to prepare for a large number of reporting agencies with different sets of criteria and that significant resources are employed just for that purpose.

6.47. COMMENT: The Committee noted that the Clerk of the Assembly publishes in the Assembly website “10 Measures of a Healthy Parliament”. These measures cover the work of the Assembly and its committees over three years – 2012, 2013 and 2014 - and details data about some of the key functions of the legislature – legislation, scrutiny and representation/accessibility. It is hoped that this data will assist future reviews of the implementation of the Latimer House Principles.

7. COMMITTEE RECOMMENDATIONS

RECOMMENDATION 1

1. The Committee recommends that the Legislative Assembly reaffirm its commitment to the Latimer House Principles on the Three Branches of Government.

RECOMMENDATION 2

2. The Committee recommends that, in addition to the Legislature, the Executive and the Judiciary all branches of government continue to adhere to and monitor the implementation of the principles in all their activities.

RECOMMENDATION 3

3. The Committee recommends that, in relation to the assessment of the implementation of the Latimer House Principles in the governance of the ACT, as outlined in paragraph 2A of the continuing resolution, consideration be given to engaging eminent experts in the field of constitutional law as part of the review process scheduled for the 9th Assembly.

Vicki Dunne, MLA

Chair

27 October 2015