



LEGISLATIVE ASSEMBLY

FOR THE AUSTRALIAN CAPITAL TERRITORY

SELECT COMMITTEE ON THE COVID-19 2021 PANDEMIC RESPONSE

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Submission Cover Sheet

Inquiry into the COVID-19 2021 pandemic response

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The Committee Secretary
Select Committee on the COVID-19 2021 Pandemic Response
Legislative Assembly for the Australian Capital Territory

By email: LACommitteeCOVID19@parliament.act.gov.au

Dear Committee

Submission to the Inquiry into the COVID-19 2021 Pandemic Response

I thank you for the opportunity to make a submission to this inquiry. I believe the existence of this inquiry is vital in holding the government to account and protecting the rights and interests of Canberrans as the government makes use of the extraordinary powers that the *Public Health Act 1997* provides in order to keep this pandemic under control.

The current Public Health Emergency was declared on 16 March 2020, shortly after the first cases of COVID-19 in Australia, and has been extended through to the present time. The previous Assembly established the Select Committee on the COVID-19 Pandemic Response on 2 April 2020, which was dissolved after presenting its final report on 13 October 2020. After the election, the select committee was not re-established. For a period of over 11 months, from 13 October 2020 to 16 September 2021, there was no Assembly committee dedicated to overall monitoring of all aspects of the COVID-19 response. Though there were no local cases during this time and restrictions on businesses were relatively relaxed compared to earlier in 2020, the Public Health Emergency Declaration remained in force, significant restrictions on individuals and businesses remained (including travel restrictions and mask mandates following major outbreaks interstate), the vaccination rollout commenced, various economic support packages continued, and the Government undertook other major COVID-19-related work such as enhancements to the Check In CBR app.

During this time, there was no committee that had clear responsibility for overall oversight of the COVID-19 response. While other committees did report on some COVID-19-related issues as part of their Annual Reports and Estimates inquiries, and the topic of COVID-19 was of course raised in various contexts in the chamber, there were no committees that were constantly examining the overall COVID-19 response or providing regular reports on emerging issues for the benefit of the Assembly and the general public. When the 2021 outbreak began on 12 August, it took over a month before the Assembly met and passed a resolution to establish the current select committee.

Other parliaments have taken various approaches to parliamentary accountability during this time. For example, at a Commonwealth level, the Senate Select Committee on COVID-19 was established on 8 April 2020 and is not set to hand down a final report until 30 June 2022. In New South Wales, the Legislative Council's Public Accountability Committee established its COVID-19 inquiry on 27 March 2020, and the inquiry has remained open through to the present time,

though it held no hearings from October 2020 until August 2021 and had to be reopened for the 2021 Sydney outbreak. The various portfolio-specific committees of the New Zealand Parliament have organised regular hearings on the impact of COVID-19 in relation to particular portfolios.

It is my view that during a Public Health Emergency, when the lives and livelihoods of Canberrans are at risk, the Government needs extraordinary powers to bring the disease under control, but in turn the Assembly needs to exercise extraordinary vigilance to hold the Government to account for its response. This requires the Assembly's committee system to be regularly holding public hearings, asking questions from ministers and from the public service, accepting submissions from the general public, and presenting reports that represent a considered view on all aspects of the Government's response. The most obvious way for the Assembly to provide this accountability is through a dedicated select committee that is automatically established for each Public Health Emergency.

Such a committee needs to operate for the entire duration of the Public Health Emergency, rather than shutting down during what seems to be a quiet period. As a concrete example of where I believe a COVID-19 select committee would have been helpful, I note that in September, the Assembly passed the *COVID-19 Emergency Response (Check-in Information) Amendment Act 2021* in response to concerns that data from the Check In CBR app could be used for purposes other than contact tracing, which arose from reports in June 2021 that the Western Australia Police had executed warrants to obtain access to SafeWA check-in data. The Check In CBR app was initially released in September 2020, and use of the app has been mandatory under various Public Health Emergency Directions since March 2021. Had a select committee existed, it would have provided a clear avenue for organisations and members of the public to raise their concerns around Check In CBR and recommend that the Assembly take action earlier, rather than waiting until an incident occurred interstate that diminished public confidence in the health response.

I therefore recommend that the *Public Health Act 1997* (or any successor legislation introduced to update our public health framework using the lessons of COVID-19) be amended to provide for the mandatory and automatic establishment of a select committee of the Assembly immediately upon the declaration of a Public Health Emergency. The committee's operation should be flexible, allowing the Assembly and the committee freedom to set procedures, hearing schedules and reporting deadlines according to the prevailing health conditions, but should enshrine the principle that the committee hold hearings, seek community input and present interim reports on a regular basis. The committee should commence immediately upon the declaration of an emergency, coming into existence as soon as party leaders have nominated members to the Speaker, without waiting for the next sitting day of the Assembly. The committee should not be dissolved until it hands down a final report after the emergency has ended, or the Assembly passes a resolution explicitly providing for alternative methods of parliamentary accountability that better suit the specific emergency. Such provisions would ensure that clear and visible parliamentary accountability is maintained for the entire duration of future emergencies.

We do not know when the next epidemic or pandemic is coming, but we do know that it is coming, and that when it does come, the Assembly needs to be well prepared to hold the Government to account so that Canberrans receive the highest-quality public health response. I ask that this committee make appropriate recommendations to enshrine this principle in law.

Yours sincerely

Andrew Donnellan