



Tasmanian
Audit Office

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29 April 2016

Hon Mr Ivan Dean MLC
Chair
Public Accounts Committee
Parliament House
HOBART TAS 7000

Dear Mr Dean,

Inquiry to Review *Public Accounts Committee Act 1970*

I make the following submission to the Inquiry to Review *Public Accounts Committee Act 1970*.

Relationship between the Committee and the Auditor-General

The relationship between the Public Accounts Committee (the Committee) and the Auditor-General is significant in focussing on the efficiency, economy and effectiveness of the implementation and administration of government policy, particularly from a financial management perspective. An important aspect of the Committee's work is to follow up on matters raised in my various reports to Parliament. My reports draw Parliament's attention to financial concerns or issues relating to any State entity. The Committee can follow up these matters by virtue of its powers to hold hearings and take evidence. In this way, matters raised by me are subject to further scrutiny for the benefit of the Parliament and the community

The *Public Accounts Committee Act 1970* (the Act) makes no direct reference to the relationship between the Committee and the Auditor-General, rather, this is covered within the provisions of the *Audit Act 2008* (the Audit Act). A Statement of Understanding between the Committee and Auditor-General of Tasmania aims to enhance the accountability mechanisms of Parliament by committing to ongoing effective communication and coordination between the Committee and myself.

Across other Australian jurisdictions there is significant diversity of the extent of interaction between equivalent Public Accounts Committee (PAC) and the Auditor-General.

I comment below on some of the significant features of the relationship between the Committee and Auditor-General:

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1. Auditor-General reporting

In most Australian jurisdictions the PAC has formal responsibility for the examination of Auditor-General reports. In Tasmania, the functions of the Committee do not formally require the review of my reports. However, as documented in the Statement of Understanding:

- I support the functions of the Committee established in Section 6 of the Act
- I will endeavour to assist the Committee in its role by referring all of my tabled reports to the Committee under Section 6(1)(b) of the Act
- the Committee will respond to my reports as it sees fit
- to assist the Committee in its deliberations about whether to follow up matters reported, I will present to the Committee those reports about which it seeks further information. In making such presentations, I may suggest areas for particular attention by the Committee
- the Committee will inform me of its intention, if any, to follow up a matter raised by me, by way of a hearing, broader inquiry or some other means of follow-up.

2. Referral of matters

In some Australian jurisdictions the PAC has the formal power to refer matters to the Auditor-General for examination.

Under the Audit Act, I may carry out any audit that the Committee requests. The Statement of Understanding also provides for me to refer matters to the Committee that I determine warrant consideration by the Committee in addition to or in place of investigation by my Office. Equally, the Committee may refer matters to me that it determines warrant consideration by me in addition to or in place of investigation by the Committee.

I give serious consideration to investigating any matter referred to me by the Committee.

3. Involvement in audit office annual plan

In most Australian jurisdictions the PAC must formally be consulted in determination of audit office annual planning priorities. Whilst this requirement is also prescribed in the Audit Act, the Statement of Understanding has enhanced this process by providing greater opportunity for consultation with, and input into the plan, by the Committee.

Underpinning this is an acknowledgement that I am independent from the Committee and I have complete discretion as to whether or not a particular audit will be undertaken, the way in which it be conducted, whether or not a particular report is to be made, the content of my reports, and the priority to be given to any matter.

4. Involvement in audit office funding

In some Australian jurisdictions the PAC has formal responsibility for the consideration of audit office funding/budget estimates. In Tasmania, the annual budget for my Office is set by the Cabinet Budget Committee without involvement of the Parliament other than via the, after the event, Budget Estimates process. This impacts my independence.

The partial solution to this has been to include the Committee in the consideration of the annual budget for my Office and allow the Committee, at its discretion, formally provide its observations to the Treasurer and myself.

5. Independent review of Audit Office

In many Australian jurisdictions the PAC is formally involved in the strategic review of Audit Office performance. This is also the case for my Office, which is subject to a review of the efficiency, effectiveness and economy of its operations at least once in every 5 year period. Under the Audit Act, the findings of the review are provided to the Committee together with any comments that I make in relation to the findings of the review. It has been the practice of my Office to provide an acquittal of the recommendations made in the review.

6. Exemption from legislative requirements that apply to government agencies

Under the *Victorian Audit Act 1994*, the Victorian Public Accounts and Estimates Committee has the authority to exempt the Victorian Auditor-General from legislative requirements that apply to government agencies on staff employment conditions and financial reporting practices. Whilst this is perhaps a matter relating to the Audit Act or the *State Service Act 2000* and not the Act, a similar discretion exercised by the Committee may provide my Office with greater flexibility in regard to staff employment arrangements and may enhance the ability of my Office to recruit, retain and reward staff.

Being able to enter into an Office specific enterprise agreement has a number of advantages, including:

- enhanced competitive capability for obtaining the best staff
- budget management by having greater flexibility, better staffing options and stronger scope to minimise audit fee increases
- greater flexibility in recognising and rewarding stronger performance
- easier and more flexible management of the unique peaks and troughs associated with our workload.

7. Auditor-General disclosure of interests and gifts and benefits

Under the *Queensland Auditor-General Act 2009*, the Auditor-General is required to lodge a pecuniary interests statement with the Speaker of the Legislative Assembly. If requested by the Queensland Public Accounts Committee, the Speaker must provide a copy of the statement to the Queensland Public Accounts Committee.

No such legislative requirement exists under either the Audit Act or the Act. The Statement of Understanding does however provide for the Auditor-General and the Deputy Auditor-General to provide a statement of interests to the Committee. The statement of interests is to disclose the information required under Part 3 of the *Parliamentary (Disclosure of Interest) Act 1996* as if the Auditor-General were a member of Parliament together with the information required to be disclosed under recommendation 1 in the Parliament of Tasmania Joint Select Committee on Ethical Conduct (2009) Final Report: *'Public Office is Public Trust'*.

The Statement of Understanding also requires the Auditor-General and the Deputy Auditor-General to disclose to the Committee any interest that conflicts or may conflict with the discharge of our responsibilities. In addition to disclosing those (potential) conflicts of interest we are required to disclose the action or proposed actions that we will undertake to resolve the conflict or possible conflict.

Under the Statement of Understanding I am also required submit, on a quarterly basis, completed forms of gifts and benefits received prepared in accordance with Tasmanian Audit Office policy, and the completed gifts and benefits register which the Committee should inspect and place on to its website.

To provide greater accountability, such disclosure requirements could be incorporated into the Audit Act.

8. Sensitive information

In some Australian jurisdictions, the Audit Acts explicitly provide for the Auditor-General to provide information to the PAC where the Auditor-General considers that it would be against the public interest to disclose sensitive information in a report.

Under Section 30A of the Audit Act, the reporting of the sensitive information to the Committee is at my discretion. I submit that the disclosure of sensitive information to the Committee should remain at my discretion.

9. Appointment of the Auditor-General

In Queensland the Public Accounts Committee must be formally consulted in regard to the appointment of the Auditor-General. The Joint Committee of Public Accounts and Audit, Department of the House of Representatives and the PACs in the Australian Capital Territory and New South Wales have the power to veto the appointment of the Auditor-General. In Victoria, the Public Accounts and Estimates Committee undertakes the selection process and recommends appointment of the Auditor-General.

In Tasmania the appointment of the Auditor-General is made by the Governor on the recommendation of the Treasurer. Under the Audit Act, the Treasurer must consult with the Committee as part of this process.

As the Auditor-General reports to the Parliament, consideration could be given as to whether the Committee should play a more active role in the appointment of the Auditor-General.

Functions of the Committee

The functions of the Committee are established in Section 6 of the Act.

All of the Australian PACs have the mandate to review public accounts and the power to investigate any items or matters in connection with those accounts or reports. In addition, all have the capacity to initiate their own inquiries and, to a large extent, determine their own work priorities. These powers are generally unique among parliamentary committees and give the PAC a significant degree of independence from the executive arm of government.

The Committee's ability to undertake inquiries is limited by two factors, the availability of its members (who are also serving Members of Parliament) and the level of staffing resources available to assist the Committee. On the second matter, the average level of staffing resources available to each PAC across Australia is relatively low, and in respect of the Committee, is ultimately a matter for the Committee and Parliament to consider.

The power of Australian PACs to access accounts, records and people is considerable, including the power to summon witnesses. However, the PAC's ability to hold accountable non-Government organisations and private sector service providers administering public monies remains a continuing area of debate. Where public monies are administered by these organisations, the focus of PAC activity is generally on the contract management and monitoring of the contracting Government entity. Consideration could be given to whether the Committee should be given "follow the dollar" powers similar to those provided the Audit Act.

Constitution of the Committee

The constitution of PACs varies across Australia. Some represent unicameral Parliaments, others represent bicameral Parliaments. Some draw their membership from, and report to, both Houses of Parliament, others draw their membership from, and report to, the Lower House only.

Notwithstanding a common view that the Lower House is responsible for introducing money bills and, therefore, should be the House responsible for consideration of how the public account is used, I submit that a joint committee provides greater breadth of representation and prospective membership, enabling members of both Houses to work together on the same matter.

Across Australia, PAC membership ranges from three members to sixteen members. The Committee has six members, the most common PAC size, and it seems the most appropriate size relative to the size of Parliament.

In terms of skills and expertise, I submit that an effective Committee is one in which the members possess a balance of skills and expertise including an understanding of public sector structures, administration and governance and appropriate technical skills and financial acumen.

Proceedings of the Committee

Under Section 5 of the Act the chair, or in their absence, the vice-chair, has a deliberative vote only, and when the votes on a question are equal the question passes in the negative. This is in contrast to the majority of Australian jurisdictions where the chair also has the casting vote.

Consideration could be given as to whether the Chair, or in their absence, the Vice-Chair, is given a casting vote.

Should you wish to discuss this submission or any other matter relating to your Review, please do not hesitate to contact me, or my Deputy Mr Ric De Santi, on (03) 6173 0900.

Yours sincerely



Rod Whitehead
Auditor-General