

THE PUBLIC ADMINISTRATION COMMITTEE: COMPLEMENTING THE SCRUTINY ROLE OF STATUTORY OFFICE HOLDERS.

1. HISTORY OF THE PUBLIC ADMINISTRATION COMMITTEE

- 1.1 The Standing Committee on Public Administration, and its predecessor committees, have had a long history in the Western Australian Legislative Council.
- 1.2 The **Standing Committee on Government Agencies** (1982-1996) was first established in April 1982 as a direct result of the report of the Select Committee on Government Agencies. The Committee had its origins in concerns regarding the limited information available on the operation and proliferation of Government Agencies, particularly in respect of the degree to which those agencies are accountable to Parliament.
- 1.3 In the period from April 1982 to November 1996, the Standing Committee on Government Agencies published 40 reports on various aspects of the system of public administration in Western Australia.
- 1.4 The **Standing Committee on Public Administration** (1996-2001) was established in November 1996, replacing the Standing Committee on Government Agencies. Under the Legislative Council Standing Orders, the jurisdiction of the Public Administration Committee was expanded beyond that of its predecessor committee, to overcome perceived restraints on its ability to provide a comprehensive overview of public administration. The functions of the Public Administration Committee were to monitor, examine and review the application of executive power within the framework of government policy and administrative law.
- 1.5 The **Standing Committee on Public Administration and Finance** (2001-2005) was established in May 2001, combining the functions of the former Standing Committee on Public Administration and the Standing Committee on Estimates and Financial Operations, with the exception of the latter committee's function of conducting annual hearings into the Western Australian Government's estimates of expenditure. The Committee's terms of reference enabled it to inquire into any aspect of public administration or expenditure of public funds.
- 1.6 The **Standing Committee on Public Administration** (2005- present) was established in June 2005. Following a review of the Legislative Council committee system in 2005, scrutiny of expenditure of public funds became the responsibility of the Standing Committee on Estimates and Financial Operations, with the Standing Committee on Public Administration retaining responsibility for scrutiny of the efficiency and effectiveness of public administration of the State.

2. COMMITTEE CONSTITUTION AND TERMS OF REFERENCE

- 2.1 The Public Administration Committee comprises five members of the Legislative Council. The Committee's terms of reference authorise it to inquire into and report to the Legislative Council on:

- i) the structure, efficiency and effectiveness of the system of public administration;
- ii) the extent to which the principles of procedural fairness are embodied in any practice or procedure applied in decision making;
- iii) the existence, adequacy, or availability, of merit and judicial review of administrative acts or decisions;
- iv) any Bill or other matter relating to the foregoing functions referred by the House; and
- v) to consult regularly with the Parliamentary Commissioner for Administrative Investigations, the Public Sector Standards Commissioner, the Information Commissioner, and any person holding an office of a like character.

2.2 Under its terms of reference, the Committee is specifically precluded from inquiring into:

- i) the constitution, functions or operations of the Executive Council;
- ii) the Governor's establishment;
- iii) the constitution and administration of Parliament;
- iv) the judiciary;
- v) a decision made by a person acting judicially;
- vi) a decision made by a person to exercise, or not exercise, a power of arrest or detention; or
- vii) the merits of a particular case or grievance that is not received as a petition.

2.3 The Committee's terms of reference cover an extremely broad range of matters relating to the activities of the State Government. Subject to the few notable exceptions specified in its terms of reference, the Committee may inquire into any aspect of the administration of the State public sector.

3. WESTERN AUSTRALIA'S PUBLIC SECTOR AND INDEPENDENT STATUTORY OFFICE HOLDERS

3.1 Western Australian public bodies include several hundred government departments, statutory authorities, local governments and other bodies, together employing about 147 000 people and generating a combined revenue and expenditure in excess of \$36 billion.¹

3.2 Independent statutory offices monitor and review the activities of the public sector. They have extensive powers of investigation and are able to report directly to the Parliament on matters of concern at any time. Under their enabling legislation, all statutory office holders are required to report at least annually to the Parliament in relation to their respective functions.

¹ <http://www.opssc.wa.gov.au/icg/>, (viewed on 31 August 2006).

- 3.3 Western Australia's statutory offices are:
- i) the Office of the Auditor General;
 - ii) the Office of the Parliamentary Commissioner for Administrative Investigations;
 - iii) the Office of the Information Commissioner;
 - iv) the Office of the Commissioner for Public Sector Standards;
 - v) the Office of the Inspector of Custodial Services; and
 - vi) the Corruption and Crime Commissioner.
- 3.4 The Public Administration Committee consults with all but the Corruption and Crime Commission, for which the Joint Standing Committee on the Corruption and Crime Commission has oversight responsibility.
- 3.5 The Auditor General is authorised under the *Financial Administration and Audit Act 1985* to audit the financial and operational administration of the State's public sector agencies and related entities. The *Auditor General Bill 2006*, introduced in the Western Australian Parliament in June 2006, seeks, *inter alia*, to widen the powers of the Auditor General as well as strengthening the relationship of that Office with the Parliament.²
- 3.6 The Parliamentary Commissioner for Administrative Investigations is established under the *Parliamentary Commissioner Act 1971* and has responsibility for investigating administrative acts or omissions in State Government agencies and local governments and to make recommendations to redress the effect of defective administration and to prevent its recurrence.
- 3.7 The Office of the Information Commissioner is established under the *Freedom of Information Act 1992 (FOI Act)* and is responsible for reviewing complaints in relation to decisions made by agencies under the FOI Act. Legislation is currently being drafted, which will see the amalgamation of the Office of the Information Commissioner with that of the Parliamentary Commissioner for Administrative Investigations.
- 3.8 The Office of the Commissioner for Public Sector Standards, established under the *Public Sector Management Act 1994*, has oversight responsibility of public sector agencies in relation to human resources and codes of conduct. The Commissioner's role is to establish and maintain appropriate human resource management standards and codes of ethics and to monitor compliance and non-compliance with standards and codes.
- 3.9 The Office of the Inspector of Custodial Services is established under the *Inspector of Custodial Services Act 2003*. The Office is responsible for scrutinising the standards and operational practices of custodial services within the state.

² Hon Eric Ripper, Treasurer, Western Australia, Legislative Assembly, *Parliamentary Debates (Hansard)*, 29 June 2006, p4589.

- 3.10 The Integrity Coordinating Group, comprising the Auditor General, the Commissioner for Public Sector Standards, the Ombudsman and the Corruption and Crime Commissioner, was established in June 2005 to promote and strengthen integrity in the State's public sector.

4. STATUTORY OFFICE HOLDERS AND PARLIAMENTARY COMMITTEES

- 4.1 The relationship between statutory office holders and parliamentary committees is constantly evolving. A recent example can be found in the changing relationship between the Public Accounts Committee, a standing committee of the Western Australian Legislative Assembly, and the Office of the Auditor General. Significantly, that committee highlighted the issue of public sector agency accountability and the scrutiny role of statutory office holders in a 2003 report:³

It is of serious concern to the Committee that the potential benefits of the Auditor General's work are not currently being maximised due to the absence of regular checks on agencies following report tabling.

At present, the Auditor General undertakes selective Follow-Up Performance Examinations approximately two years after completion of the original reports to assess agencies' progress in the relevant area. However, there is no direct assessment as to whether individual recommendations from the original report have been implemented.

- 4.2 The Public Accounts Committee recognised the need for greater accountability of public sector agencies under scrutiny of the Auditor General, recommending *inter alia*:⁴
- i) agencies that are subject to Performance Examinations should report to the Public Accounts Committee within 12 months of the Auditor General's Report as to what actions they have taken to implement the Auditor General's recommendations; and
 - ii) the Auditor General should liaise with the Public Accounts Committee regarding instances where agencies have been deficient in responding to the Auditor General's Reports.

5. THE PUBLIC ADMINISTRATION COMMITTEE AND STATUTORY OFFICE HOLDERS

- 5.1 In accordance with its terms of reference, the Public Administration Committee is required to consult regularly with independent statutory office holders. In the past, this requirement has been met largely through regular private briefings with the designated office holders. These regular briefings have enabled the Committee to develop a greater understanding of the roles and current activities of those offices and to identify potential lines of inquiry for the Committee.

³ Western Australia, Legislative Assembly, Public Accounts Committee, Report 3, *The 2001-2002 Annual Report of the Office of the Auditor General: A Performance Review*, 15 May 2003, pp6-7.

⁴ *Ibid*, pp8-9.

- 5.2 In November 2005, shortly after the appointment of the current Public Administration Committee, the Committee resolved to trial a new initiative aimed at enhancing its working relationship with statutory office holders, whereby it systematically scrutinises all statutory office holder reports to ascertain whether any subject matters could be matched against the Committee's terms of reference for further inquiry.
- 5.3 The Committee's new initiative represents a significant shift from its traditional relationship with statutory office holders, and provides an opportunity to "add value" to the activities of those offices by complementing their role in scrutiny of the system of public administration.
- 5.4 Since commencing its new initiative, the Committee has scrutinised 23 independent statutory office holders' reports. The Committee has devised a number of strategies to further scrutinise the matters raised in these reports:
- i) *Follow-up with the relevant department(s) at a later date.* This course of action would be taken where the Committee considers it appropriate that the progress of the relevant department(s) should be monitored to ensure that recommendations of a statutory office holder are being implemented.
 - ii) *Further explore the matter with the relevant statutory office holder.* Where the Committee considers that a matter should be further discussed with the reporting statutory office holder, it will be noted for follow-up when the Committee next meets with the relevant statutory office holder (usually on an annual basis).
 - iii) *Write to the relevant Minister(s) seeking advice as to how the matter will be dealt with.* This course of action would be taken where the Committee considers that an issue is of significant concern and the responsible Minister(s) should be made aware that it has come to the attention of a parliamentary oversight committee.
 - iv) *Invite the relevant department(s) to appear before the Committee.* Where the Committee considers that a matter is of significant concern and requires urgent action, the relevant department(s) would be examined at a public hearing to further explore the reasons behind the identified problem and to ascertain whether steps are being taken to address the problem.
 - v) *Initiate an inquiry.* This course of action would be taken when a serious and/or longstanding problem has been highlighted by a statutory office holder and there is *prima facie* evidence that the relevant department has failed to take appropriate action to rectify the situation.
- 5.5 To date, in the majority of cases, the issues raised by the relevant statutory office holders have led the Committee to write to relevant Ministers seeking an initial response as to how the issues are to be addressed. Between November 2005 and September 2006, the following actions were taken in response to statutory office holder reports:
- i) matters have been noted in **two** statutory office holder reports that will be followed up with the relevant departments in 12 months time;

- ii) issues highlighted in **ten** statutory office holder reports have been or will be further explored with the relevant statutory office holder at an annual public hearing;
- iii) issues highlighted in **seven** statutory office holder reports have resulted in letters to eighteen accountable Ministers; and
- iv) issues identified in **one** statutory office holder report have led the Committee to initiate an inquiry.

5.6 The following paper focuses on the first inquiry to result from the Committee's initiative. The *Inquiry into the Compliance of the Department of Health with Recommendations of the Auditor General's 2001 Report on Life Matters: Management of Deliberate Self-Harm in Young People (Deliberate Self-Harm Inquiry)* is presented as a case study in the following paper, to illustrate the Committee's experiences and to highlight the potential benefits of this approach.

5.7 The outcome of the Committee's investigation in relation to the Deliberate Self-Harm Inquiry has been reported to the Parliament as a separate report.⁵ The outcomes in relation to other matters that the Committee has investigated under its new initiative will be included in the Committee's annual report to the Parliament.

6. BACKGROUND TO THE DELIBERATE SELF-HARM INQUIRY

6.1 In 2001 the Auditor General conducted a performance examination of the Department of Health's management of deliberate self-harm in young people. That examination entitled "*Life Matters: Management of Deliberate Self-Harm in Young People*", Report No 11, (**2001 Performance Examination**) was tabled in the Parliament in November 2001.⁶

6.2 The 2001 Performance Examination evaluated the care given by hospital emergency departments and community mental health services against guidelines developed in 2000 by the Australasian College for Emergency Medicine and the Royal Australian and New Zealand College of Psychiatrists for the management of deliberate self-harm in young people.⁷

6.3 In his 2001 Performance Examination, the Auditor General made adverse findings in relation to service quality; hospital systems, policies and resources; follow-up by community-based services; and the achievement of State Mental Health Policies and Strategic Direction.

⁵ Legislative Council of Western Australia, Standing Committee on Public Administration, Report 2, *Compliance of the Department of Health with Recommendations of the Auditor General's 2001 Report on Life Matters: Management of Deliberate Self-Harm in Young People*, 21 September 2006. Report can be viewed at <http://www.parliament.wa.gov.au>.

⁶ Auditor General for Western Australia, *Life Matters: Management of Deliberate Self-Harm in Young People*, Report No 11, November 2001. That report may be viewed at: <http://www.audit.wa.gov.au> (viewed on 19 September 2006).

⁷ Australasian College for Emergency Medicine and Royal Australian and New Zealand College of Psychiatrists, *Guidelines for the Management of Deliberate Self-Harm in Young People*, Australasian College for Emergency Medicine and Royal Australian and New Zealand College of Psychiatrists, Melbourne, May 2000.

- 6.4 Four years later, the Auditor General conducted a follow-up performance examination of the Department of Health. This was published in the Auditor General's *Second Public Sector Performance Report 2005*, Report No 8, **(2005 Follow-Up Examination)**.⁸ The 2005 Follow-Up Examination audited the Department of Health's compliance with the six recommendations made in the 2001 Performance Examination.
- 6.5 In his 2005 Follow-Up Examination, the Auditor General considered that overall, the Department of Health had made "*limited progress*" in addressing the recommendations of the 2001 Performance Examination.⁹ The Follow-Up Examination made five Key Findings.
- 6.6 As part of its new initiative, the Committee examined the Auditor General's Follow-Up Examination in November 2005. Noting the Auditor General's conclusion of limited progress, the Committee considered that further scrutiny of the Department's actions in the four years following the 2001 Performance Examination was warranted.

7. CONDUCT OF THE INQUIRY

- 7.1 The Committee examined witnesses from the Office of the Auditor General and the Department of Health, providing both agencies with an opportunity to put forward their respective views. The Committee also sought to examine the Department's performance from a health consumer's perspective, through Mr Keith Wilson, Former Chair of the Mental Health Council of Australia, and from a research/policy perspective, through Professor Sven Silburn, Chair of the Ministerial Council for Suicide Prevention.¹⁰
- 7.2 Two significant and highly relevant reports provided a context for the Deliberate Self-Harm Inquiry. In October 2005, the Mental Health Council of Australia released *Not for Service: Experiences of Injustice and Despair in Mental Health Care in Australia*, which detailed the personal experiences of people with mental illnesses, their families, carers and health professionals.¹¹ In March 2006, the Senate Select Committee on Mental Health tabled *A national approach to mental health - from crisis to community*, the first report on an inquiry that attracted 800 written submissions and involved 17 days of hearings across the country, gathering oral evidence from 302 witnesses.¹² Tabling of this report was expedited so as to ensure that it had a significant influence on the Council of Australian Governments' mental health policy discussions.
- 7.3 The Office of the Auditor General advised the Committee in evidence that the 2005 Follow-Up Examination was not as comprehensive as the 2001 Performance Examination, due to the need of that Office to balance resources between revisiting areas and investigating new areas.

⁸ Auditor General for Western Australia, *Second Public Sector Performance Report 2005*, Report No 8, October 2005. That report may be viewed at: <http://www.audit.wa.gov.au> (viewed on 20 September 2006).

⁹ *Ibid*, p40.

¹⁰ Transcripts of evidence can be viewed on the Parliament's website at <http://www.parliament.wa.gov.au>.

¹¹ Mental Health Council of Australia, *Not for Service: Experiences of Injustice and Despair in Mental Health Care in Australia*, 19 October 2005. That report can be viewed at <http://www.mhca.org.au/notforservice/> (viewed on 20 September 2006).

¹² Parliament of Australia, Senate Select Committee on Mental Health, Report 1, *A national approach to mental health - from crisis to community*, 30 March 2006.

The Committee's inquiry was welcomed by the Auditor General. The inquiry provided an appropriate vehicle for further investigation of the Department's actions between 2001 and 2005, thus complementing the Follow-Up Examination by the Office of the Auditor General.

- 7.4 Through its inquiry, the Committee was able to scrutinise the specific actions taken by the Department following the Auditor General's 2001 Performance Examination. The inquiry gave the Department of Health an opportunity to provide a detailed response to the Auditor General's findings, and to provide an update on current initiatives aimed at addressing the Auditor General's concerns.
- 7.5 By exploring the issues raised by the Auditor General from a health consumer and a health policy/research perspective, and within the broader context of the current mental health services environment, the Committee gained greater insight into how well the Department of Health is currently managing deliberate self-harm in young people.
- 7.6 When evidence had been taken from each of the four witnesses, the Committee scrutinised transcripts and all written documents, compiling a matrix to highlight any discrepancies in evidence. Through this process, a number of issues were identified. Consistent with the principles of natural justice, a copy of the matrix of evidence was forwarded to each witness, inviting further comment or clarification.

8. CONCLUSIONS

- 8.1 The Office of the Auditor General recognised the importance of undertaking a Follow-Up Examination of the Department of Health's management of deliberate self-harm in young people. However, due to the need to prioritise the allocation of resources between concurrent investigations, the scope of the 2005 Follow-Up Examination could not match that of the wide-ranging Performance Examination undertaken in 2001. Through its inquiry, the Public Administration Committee was able to complement the role of the Auditor General in scrutinising the efficiency and effectiveness of the Department of Health.
- 8.2 The Committee identified specific improvements required to enhance the clinical management of young people at risk of deliberate self-harm, particularly within the context of more effective and efficient administrative practices.¹³
- 8.3 The Leader of the Government is required, under Legislative Council Standing Order 337, to report to the House within four months of tabling of a committee report as to the Government's response to recommendations of the committee. By taking up the issues raised by the Auditor General, the Public Administration Committee's inquiry provides a mechanism through which the Department of Health can be held to greater account.

¹³ Legislative Council of Western Australia, Standing Committee on Public Administration, Report 2, *Compliance of the Department of Health with Recommendations of the Auditor General's 2001 Report on Life Matters: Management of Deliberate Self-Harm in Young People*, 21 September 2006.