

'The Role of Public Accounts Committees'

Jonathan O'Dea MP

Chair, Public Accounts Committee, NSW Parliament

A Valuable Safety Mechanism

The theme of the conference within which this paper is presented is “The Executive versus Parliament: Who Wins?”. While the notion of one arm of government competing against another is not surprising in the context of Australia’s adversarial political system, hopefully both the Executive and Parliament can operate well together in a balanced way so that ultimately it is the public who wins.

Nevertheless, there is a need for safety mechanisms in Westminster style Parliaments, in which the elected arm of Government is best placed to keep the Executive arm of Government in check. One of the most powerful and valuable safety mechanisms to ensure greater accountability and scrutiny of the Executive are Parliamentary Public Accounts Committees (PACs).

Parliament has a crucial function of holding the Executive Government to account in the time between the ultimate public accountability of election days. Parliament forces the Government to justify legislation, explain its motives and rationale, and defend its actions or omissions. It does so through a range of instruments and forums, including committees. In New South Wales, two such committees are the Legislation Review Committee and the Public Accounts Committee.

Public Accounts Committees across Australia

PACs date back some 150 years to England and are known by various names in different Australian jurisdictions. While operational variations also exist between different jurisdictions, each PAC scrutinises the actions of the Executive on behalf of the Parliament. They help ensure appropriate use by government of public money and recommend improvements to the efficiency and effectiveness of Government activities.

This paper makes observations particularly relevant to the New South Wales experience. While this paper will not examine the differences across Australia, they are well summarised in a useful baseline study published in 2006 by KPMG's Government Advisory Services for the La Trobe University Public Sector Governance and Accountability Research Centre.

However, it is worth noting that the Public Accounts and Estimates Committee of the Victorian Parliament is a joint house investigatory committee. It is unique in Australia in having the dual responsibility of scrutinising both the public accounts and the budget estimates.

Regional forums of PACs also exist, such as the Australasian Council of Public Accounts Committees, which New South Wales will host in early 2013. Other forums likewise exist across the globe, which bring together and facilitate the exchange of ideas, information and examples of best practice.

The existence of a PAC in New South Wales dates back to 1902. It has primary functions to examine and report on opinions and reports of the Auditor-General, explore issues relating to financial reports and undertake inquiries referred by Parliament or a Minister (particularly where it is a policy matter). Since 1982 it has also been able to launch self-initiated inquiries without government direction. The PAC was instrumental in the adoption of annual reporting rules and guidelines for statutory bodies as well as reviewing the operations of Audit Committees, risk management practices and the use of accrual accounting in NSW.

The PAC publishes an Annual Report and has the power to report conclusions, recommend improvements and follow up on these. It currently meets at least once every sitting week and is undertaking or planning a number of inquiries relating to Auditor General performance audits and financial audits as well as topics including cost of public housing maintenance, relative costs of alternate energy options and public sector procurement.

Six Key Success Factors

In acting as a safety mechanism and check on Executive power, there are six major factors one can highlight as influencing the success of a PAC.

1. Impartiality

Reviewing the efficiency and effectiveness of Government will always have political implications. Opposition WasteWatch co-ordinators/committees operate with far less structure and resources than PACs, and are a function of Opposition. They will be more directly critical of perceived waste and mismanagement within a relevant Government and its Executive. As a party based entity, they are generally driven by the Chair, with an overt and unapologetically political agenda. As such, they attract no Secretarial support from the Parliament's bureaucracy.

In contrast, PACs operate in a more bipartisan way, on behalf of Parliaments and their electors. They have cross party membership and generally formulate consensus recommendations. A formal committee structure, particularly one supported by statutory inquiry powers and obligations, enables fuller consultation, providing more opportunity for balanced debate, proper research, interviewing witnesses and hearing testimony from experts in the field. The committee's agenda is predominantly based on helping manage good public outcomes and delivering value for money.

One discussion point that has attracted significant comment in recent years relates to whether a PAC is best chaired by a member of the Government (as in Australia) or Opposition (as in Britain and Canada). While there are arguments for both, when a government is functioning healthily (this was highly questionable in the final years of the previous NSW Government), the author firmly believes that PACs are best directed by a member of the Government who is able to understand, access and navigate through relevant processes and personalities. Where governments are dysfunctional, the role of the Opposition in holding a Government accountable, including through the WasteWatch function, is enhanced.

Situations may arise where there is a risk of tension between a Chair's loyalty to a Government and scrutiny of the Executive. Committee procedures and the standing orders function to support a Chair to fearlessly and fairly promote a higher duty to the public. The actions of Chair in promoting the broader public interest as properly motivated parliamentarian should increase rather than reduce likelihood of later Ministerial service. The personal characteristics of the Chair are far more important than whether they are part of the Opposition or Government of the day.

In addition to the attitude and leadership of the Chair, the motivation and capability of other committee members is paramount. They must be able to act on the PAC in a non-party political fashion, despite also serving in a generally highly partisan legislature.

2. Stage in Political Cycle

The level of activity and focus of a PAC will often vary depending on the stage of a political cycle. This is in both the context of each individual Parliamentary term as well as the number of terms any political party has been in power.

With fixed four year terms in New South Wales, there is a disincentive for a PAC with majority Government representation to undertake a potentially critical inquiry of the Government in the lead up to the next election. While less controversial issues might still be pursued at such a time, the longer any Government stays in power, the less likely it may be that a Government controlled PAC will aggressively pursue politically sensitive inquiries that may embarrass the Executive.

A properly functioning Executive should welcome scrutiny and can deflect potential criticism through being seen to respond appropriately to highlighted issues. However, the Executive and PAC working cohesively in such a way is an ideal that may not always be a political reality.

3. Resources Available

There is a tension in that funding for the PAC Secretariat and other Committee resources is reliant on Executive allocation. It is important to have a Treasurer and Executive that properly respects the oversight role of the PAC and provides for appropriate resource allocation.

This may be made more difficult where there is a period of under-activity from the Committee that helped prompt a reduction in overall resources available, as occurred in NSW in 2009. While there is now a very active PAC in New South Wales following

the change in government in March 2011, issues of resourcing potentially threaten effective operation of the PAC.

There is no longer secretariat staff solely dedicated as a permanent PAC Secretariat. A PAC specific annual budget is also not currently possible, with a record number of other committees now competing for a pool of generally common staff and other shared resources, allocated according to each committee's workload. There is a risk that inadequate resources might mean a less proactive and rigorous approach to fulfilling PAC functions. The extent of this resource issue may become more apparent over time. Evaluating the appropriateness of the current staff and budget arrangements may be assisted by a future exercise benchmarking resources and measuring relevant committee outputs against other relevant jurisdictions and committees.

4. Parliament's Ongoing Level of Interest

While Parliaments trust PACs to perform a scrutiny function, there should also be a strong culture of accountability within each Parliament that promotes appropriate consideration of and debate on PAC reports.

The reality is that Committee reports are not thoroughly read by most members of Parliament, who have many demands for their attention. In the previous NSW Parliamentary term, Committee reports were considered on a Friday when there was no Question Time and many MPs did not attend. As a consequence there was sometimes inadequate consideration of Committee reports, with those members who had sat on the committee sometimes left to debate reports between themselves. In the new NSW Parliament, with Question Time now occurring every sitting day, all MPs will be present in the House on the day when committee reports are listed for debate. This should promote a better culture of accountability and improved attention to committee reports.

There is no formal mechanism for ensuring that the Government acts upon recommendations, although in NSW there is an obligation for the Government to at least respond to reports/recommendations within 6 months. In practice however, the response may be inadequate. For example, the previous NSW Labor Government failed to respond to a PAC report on State Plan reporting for almost two years. This

was only forthcoming when the matter was ultimately highlighted in Parliament and in the media (with the author playing a role in both as an Opposition MP).

5. Level of Media Involvement

In pursuing improved Government efficiency, effectiveness and cost control, a PAC will sometimes need to rely on the media to convey crucial messages to a broader domain. This information dissemination in turn assists to engage public stakeholders and promote intelligent debate, which can create powerful expectations for the Executive to act in an accountable way.

As a backbench MP and committee chair, a quality parliamentary speech may not suffice to convey a matter of public importance. Issuing a media release and briefing journalists can have its place in highlighting the need for an issue to be addressed in the public interest. A concern for increased community engagement is as important for committees as it is for the work of the House.

6. Healthy Relationship with Audit Office

Parliamentary Committees are more effective in holding the Executive to account when they work closely with independent authorities charged with scrutiny functions. For example, this applies in New South Wales with the PAC and the Auditor-General, as it does for The Independent Commission Against Corruption (ICAC) and the ICAC Parliamentary oversight committee., and other watchdog committees.

A healthy relationship between the PAC and Auditor General in NSW is essential to public sector accountability. While the PAC is responsible for commissioning periodic reviews of the Audit Office, the two operate independently. PACs should play a role in protecting the independence and integrity of the Auditor-General in scrutinising public accounts. Both entities should operate co-operatively and in practice discuss potential areas of inquiry that either might undertake.

PACs complement the work of the independent offices of Auditor-General by following up aspects of Auditor-General audit reports to Parliaments on administrative performance and financial matters. PACs are able to use political

force and expertise to subject the audits to greater Parliamentary scrutiny and thus encourage Government Departments to respond to Audit Office recommendations and take appropriate action.

Conclusion

PACs obviously have an important role as mechanism of Parliaments to help keep the Executive in check. There are various factors that will impact on how successful PACs will be in performing this function. However, in order to add optimal value, PACs should be seen as more multidimensional than just a means for a Parliament to compete with the Executive arm of Government. The aim should be appropriate balance rather than adversarial competition.

A properly operating PAC should complement as well as confront; support as well as scrutinise; and co-operate as well as challenge. In this way, good governance and democratic process can be better promoted, with the public more likely to be declared as the winner.