

SECTION V:

**HOLDING MINISTERS AND
PUBLIC SERVANTS TO ACCOUNT**

Financial Scrutiny of Government by a Parliamentary Committee: The challenges of facing the estimates and financial operations committee of the Legislative Council of Western Australia

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Abstract

Pursuant to its terms of reference, the Committee scrutinises the expenditure of government. How does a committee charged with this function make sense of an extremely complex government and large public sector and develop focus areas to look at, with the limited resources available to a committee? This is examined in an historical context as well as through the experiences of the Estimates and Financial Operations Committee of the Legislative Council of Western Australia.

Introduction

The Estimates and Financial Operations Committee (Committee) is a standing committee of the Legislative Council. It is a new Committee established just over a year ago, on 30 June 2005.

The Committee is an oversight committee whose task is to scrutinise the financial expenditure of government and thereby assist Parliament in holding the government to account for its use of public funds and resources. The Committee's establishment is a reflection of the importance the Legislative Council of Western Australia places on one of its key functions, that of the scrutiny of the estimates of expenditure and the financial operations of government.¹

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¹ The Council is often referred to as the 'house of review' because one of its functions involves monitoring and reviewing legislation and scrutinising the government's budget and the administration of government departments and other public agencies.

The Committee's Predecessors

Since the establishment of the modern Western Australian Legislative Council committee system in 1989, the function of scrutiny of the budget and government financial operations has been the responsibility of both standing committees and ad hoc Budget review committees (such as annually constituted estimates committees).

From 1989-2001 the former Standing Committee on Estimates and Financial Operations had the function of considering the estimates of expenditure laid before the Council each year and also to consider and report on any matter relating to the financial administration of the State. The Committee's terms of reference are very much a reflection of this former committee.

The former Standing Committee on Estimates and Financial Operations reported annually on the government's estimates of expenditure, examined the financial aspects of Bills and other matters referred to it by the Council and conducted inquiries into a diverse range of matters, including: the allocation and expenditure of financial resources within the prison system; a review as to whether the Goldfields Gas Pipeline tariffs were 'fair and reasonable' as required under s 22(1) of the Goldfields Gas Pipeline Agreement Act 1994; the costs incurred by government departments in answering parliamentary questions; and the expenditure of public funds on the provision of health services in the Kimberley region generally, and in Kimberley Aboriginal communities specifically.

As part of a series of changes to the Council committee system in the Thirty-Sixth Parliament the former Standing Committee on Estimates and Financial Operations was terminated and its functions were divided between other committees: 'The function of considering matters relating to the financial administration of the State was given to the Standing Committee on Public Administration and Finance.'

The function of consideration of the annual estimates of expenditure was given to the Estimates Committee, being a Committee of the whole House established by Sessional Orders.

Former Standing Committee on Public Administration and Finance

The primary objective the Standing Committee on Public Administration and Finance was to inquire into and report to the House on the efficiency and effectiveness of present arrangements for the public administration and financial management of the State.

However, the heavy workload of that committee on its inquiries relating to matters of public administration hindered it from pursuing inquiry into matters relating to the financial management of the State.

Former Estimates Committee

The Estimates Committee was a Committee of the Whole (being 34 members) chaired by the Chairman of Committees. It operated under those standing orders applicable to standing committees.

Its task was to consider the Annual Estimates of Expenditure and related documents (the 'Budget Papers'). The Estimates Committee approached its task as a standing committee which had been referred documentation by the Legislative Council for the Committee's examination in detail.

The Estimates Committee did not examine all of the Votes in the appropriation bills. It generally examined between 20 and 30 individual agencies or bodies (or parts thereof). The choice of 'Votes' to be considered, and the timetable of hearings, was determined by the Chairman of Committees, in consultation with the Business Management Committee (which represents all parties in the Legislative Council).

The Legislative Council stood adjourned whilst the Estimates Committee was conducting its hearings. Hearings were held over three or four consecutive days, in the Legislative Council chamber. A member could ask any question that related in some way to the Government's Budget for the year in question, or to items referred to in the Budget Papers or the current annual report of an agency under examination.

A report could be prepared on the hearings if the Chairman considered that it was necessary. However, any such report was required to be presented to the Legislative Council within one day of the second reading of the appropriation bills in the Legislative Council (which generally happened the very first sitting week after the hearings).

Some problems with this process were noted arising from some Members seeking to rely on standing committee powers in a forum that was not practical for the exercise of such powers. As a 34-member standing committee, it was impractical for the Estimates Committee to perform certain procedures that other standing committees undertake regularly, such as: requesting or ordering the production of documents; re-calling witnesses after a hearing; conducting hearings in private session; and undertaking deliberations in the absence of the public.

Review of the Committee system

At the commencement of the current Parliament a review of the operations of the Council committee system was undertaken by Hon George Cash MLC, Chairman of

Committees (Cash Report).² A number of issues relating to the operations of the previous annual Estimates Committee were raised. In particular, the Cash Report noted that many Members were dissatisfied with the process for consideration of the budget papers employed by the Council in the previous Parliament, as Members considered they were not able to deal effectively with the scrutiny of the budget in that forum.

Also noted was the view of some Members that financial accountability of departments to Parliament had been reduced by the combination in the one committee of both the scrutiny of public administration and finance.³

The Cash Report recommended that consideration be given to ensuring that a standing committee of the Council is provided with the mandate to examine the expenditure of public monies.

The establishment of the current Estimates and Financial Operations Committee has thus come about, in part, from the Council's desire to provide a more effective forum for the scrutiny of the budget and government financial operations and allow members to go into some detailed examination of budget expenditure and department annual reports.

The Committee

The Committee comprises 5 members of Parliament appointment by the Legislative Council. It is significant to note that the Committee has a non-Government majority, which is considered by the Legislative Council to be appropriate for the scrutiny of government financial matters.⁴

The Committee's terms of reference are to consider and report on the estimates of expenditure laid before the Council each year; any matter relating to the financial administration of the State; any Bill or other matter relating to the foregoing functions referred by the House; and to consult regularly with the Auditor General and any person holding an office of a like character.

The Committee's terms of reference gives the Committee two main functions: an estimates function; that is to examine the estimates of expenditure laid before the

² Hon George Cash MLC, Chairman of Committees, Legislative Council of Western Australia, *Reflections on the Legislative Council Committee System and its Operations during the Thirty-Sixth Parliament: Discussions with the Chairs and Deputy Chairs of Parliamentary Committees*, May 2005.

³ That is, the Public Administration and Finance Committee.

⁴ Western Australia, Legislative Council, *Parliamentary Debates (Hansard)*, June 30 2005, p3730.

Council each year and an oversight function to consider and report on any matter relating to the financial administration of the State.

The Committee's terms of reference are extremely broad, enabling the Committee to initiate investigations relating to any aspect of the financial administration of the State. This includes inquiry into any matter relating to past, current, proposed and future expenditure by the public sector.

The Committee may conduct inquiries into the financial administration of government departments and agencies (and other bodies funded by the Government) including their performance, processes and the outcomes of their policies and programs.

The Committee's terms of reference also require the Committee to consult regularly with the Auditor General and any person holding an office of a like character. The objectives and functions of the Committee and the Auditor General in assessing the utilisation of public money are similar to a certain degree. In this respect, regular consultation with the Auditor General can assist the Committee greatly when conducting financial scrutiny of government. In particular the Auditor General can assist the Committee in identifying problem areas and identifying potential future lines of inquiry.

The Committee also has a legislative review function and is required to consider and report on any Bill referred to by the House. The Committee's third report was an inquiry into the Energy Safety Bill 2005 and the Energy Safety Levy Bill 2005.

The Committee has broad powers of investigation to assist it to perform its functions, including the power to summons documents and witnesses, conduct hearings in private session, undertake deliberations in the absence of the public, hold follow-up hearings, undertake further inquiry and report to the House on any issues that arise during its inquiries and hearings.

How does the Committee approach its task?

To set the context for the Committee's function, the Western Australian Government's net worth in 2006/07 is estimated at over \$55 billion.⁵ The WA public sector comprises some 250 government departments, statutory authorities and other bodies, with agencies varying in size from those employing a few people to those employing many thousands. Together these agencies employ about 115 000 people and generate a combined revenue and expenditure in excess of \$33 billion annually in providing a range of services to the citizens of Western Australia.⁶ For

⁵ The Government of Western Australia, *2006-07 Budget Economic and Fiscal Outlook*, Budget Paper No 3, 11 May 2006, p 18.

⁶ <http://www.audit.wa.gov.au/insideoag/index.html> (current at 26 September 2006)

the 2006/07 financial year over \$14 billion was appropriated to these government entities from the Consolidated Fund alone.⁷

Being newly established, the Committee was at an advantage from the point of view that it was starting from scratch and could learn from the experience of its predecessors. The Committee was very much in consensus that it wanted to set up a new process that would provide for meaningful and effective financial scrutiny.

The Committee also wanted to establish a process that took into account Members' expectations, their desired level of involvement and their criticisms of past processes employed. The Committee surveyed Members of Parliament on their expectations of the budget estimates process and their preferred mechanism to consider the annual budget.

Overarching the Committee's consideration was setting up processes to facilitate transparency in government financial operations to ensure that departmental spending matched parliamentary appropriations; public monies are applied for the purposes prescribed by Parliament; and public funds are being used economically, efficiently and effectively.

To foster awareness in the public sector of the Committee's existence and intentions, the Committee wrote to all government departments and agencies introducing the Committee and its terms of reference and advising that they may be required to provide information to the Committee in the future. A committee website was established providing details on the Committee, its inquiries, hearings, transcripts of evidence and reports for access by members of the public.

The Committee chose the hearings forum as its principal mechanism of scrutiny, whereby the Committee invites the Chief Executive Officer and Chief Financial Officer from a particular department or agency to answer questions put to them by the Committee.

As mentioned earlier, historically in the Legislative Council the annual budget estimates hearings have been held over three to four days during which Members could ask questions relating to the Budget Papers. This has always provided an opportunity for the involvement of all Members of the Council not just the Members of a particular committee.

The Committee has set up a process whereby it holds its estimates hearings ongoing throughout the year. The hearings are held on a non sitting day of a sitting week (generally on a Monday afternoon) so that all Members can attend and so that Members have adequate time and opportunity to question government departments and agencies.

⁷ Appropriation Bills No 1 and No 2, 2006.

The advantage of this hearings process is that the Committee can ensure that detailed questions and lines of inquiry are able to be pursued and opportunities are provided to Members to follow-up on matters through the Standing Committee process.

The Committee organises its hearings program in consultation with Members of the Legislative Council. All Members have the opportunity to have input into and participate in the hearings. Members are offered the opportunity to provide questions on notice prior to the hearing so that more comprehensive responses may be received.

The Committee does not set out to examine all of the Votes in the appropriation bills each year. The Committee generally examines between 30 and 40 individual agencies or bodies (or parts thereof). The choice of 'Votes' to be considered, and the timetable of hearings, is determined by the Committee.

To supplement the ongoing hearings, the Committee holds a one day session of 'traditional' annual estimates hearings (concentrating solely on the contents of the Budget Papers) immediately following the tabling of the Budget Papers in the Council. These hearings provide a two-fold benefit by aiding the Committee in identifying issues for further inquiry during its ongoing hearings through the year; and providing Members with the opportunity to ask questions on the Budget at a time when it is most relevant, that is before the

Appropriation Bills are passed.

To provide a focus of inquiry over the year the Committee has chosen a number of whole of government issues to address of each agency which appears before it, for example: Key Performance Indicators and Performance Management; Funding to regional and rural areas of Western Australia; Information systems security; Implementation of shared services and Fees and charges.

These matters are identified by the Committee in a number of ways: issues identified in the Auditor General's audit and performance reports; issues identified through discussions with the Office of the Auditor General; and Members' interest.

For all hearings the responsible or representing Minister or Parliamentary Secretary will be invited to attend the hearing. All Members of the Council are invited to attend each hearing and are entitled to ask questions. Questions may also be put on notice before and during a hearing. Unasked questions at the end of a hearing may be provided to staff after the hearing and forwarded to the agency in writing for a response. A report may be prepared on the hearings if the Committee considers that it is necessary, or the hearings may be reported in the Committee's annual report.

Conclusion

The Estimates and Financial Operations Committee has implemented a new and innovative process to consider the annual estimates of expenditure and financial administration of the State of Western Australia and any issues arising from this consideration will be pursued by the Committee for further inquiry and report.

The Committee is aware of its limitations both in relation to the resources available to the Committee but also in relation to the time constraints that Members of Parliament have. Whilst the Committee does not have the capacity to look at every single issue relating to the financial operations of government, it can examine key aspects and it can foster a general awareness across government that the Parliament is active in its scrutiny function and that there is a chance that the agency may be called in to appear before the Committee.

It is still early days for the Committee, and the effectiveness of the process will be made evident over time. However, early indicators suggest that there is advantage in pursuing a more inquisitorial style of questioning than was possible under the previous Estimates Committee process. The Committee is committed to provide an effective means for Parliament to scrutinise the financial expenditure of government and will continually review and refine its processes to achieve this end. ▲

List of agencies that have appeared before the Committee

Department of the Legislative Council x 2
Western Australia Police
Fire and Emergency Services Authority of Western Australia
Office of Road Safety
Disability Services Commission
Main Roads Western Australia
Department of Education and Training x 2
Country High School Hostels Authority
Curriculum Council of Western Australia x 2
Department of Education Services
Department of Environment
Department of Local Government and Regional Development
Department of Health
Department of Agriculture
Department of Premier and Cabinet
Department of Water x 2
Department for Planning and Infrastructure
Public Transport Authority
Disability Services Commission
Department for Community Development
Water Corporation
Legal Aid Western Australia

Equal Opportunity Commissions
Parliamentary Services Department