

Parliaments and Their Watchdogs: Evaluating the Role of Periodic Statutory Reviews of Auditors General

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The Committee is always open to exploring way[s] of improving its strategic review function ... Perhaps most importantly Are strategic reviews meeting Parliaments' needs? What benefits are Auditor-Generals deriving from the strategic review process?

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Introduction

Watchdogs such as the Auditor General and the Ombudsman are created by Parliaments to perform important integrity, accountability and oversight functions. To perform these functions effectively and to maintain trust in their roles they perform their functions independently of the Executive and of the Parliament itself. They are given extensive powers, broadly similar to those granted to Royal Commissions. The watchdogs assist Parliaments in holding Governments to account by the provision of information and they also provide services such as resolution of complaints about the actions of agencies of the Executive. These functions provide benefits to Parliament, the community, organisations and individuals.

Many Parliaments have included in legislation a requirement for one or more of their watchdogs to be subject to review at regular intervals. While higher purposes of the reviews are not embodied in the legislation, it is broadly evident that the reviews are intended to provide assurance on an ongoing basis that the institutions are performing to a high standard. For instance, the New South Wales Deputy Auditor General commented that statutory reviews '... are necessary and are fundamental for Parliament to gain assurance that the Auditor-General is carrying out his role in an appropriate way'.³

The benefits of having the reviews scheduled in advance through legislation is highlighted by the experience in the Australian Capital Territory (ACT). Prior to any statutory provision for a review, the Government had criticised the Auditor General and then initiated a performance audit of the Auditor General resulting in commentary that identified this as '... a thinly-veiled attempt to intimidate the Auditor-General'.⁴

However, periodic reviews are not a consistent practice across all Australian jurisdictions or across all watchdogs within particular jurisdictions. For instance, in Queensland both the Auditor General and the Ombudsman are subject to statutory 'Strategic Reviews'. The

¹ Peter Wilkins was an Assistant Auditor General at the Western Australian Office of the Auditor General until early 2009, after which he served as Western Australian Deputy Ombudsman until early 2014.

² D. Pearson, Strategic Reviews of Auditors-General. Paper presented to the Australasian Council of Public Accounts Committees (ACPAC) 14th Biennial Conference, Brisbane, 20 April 2017.
<http://www.acpac.asn.au/Conferences/2017/Strategic%20Reviews%20of%20Auditors-General%20-%20the%20Victorian%20Experience%20-%20Mr%20Danny%20Pearson%20MP%20-%20speech.pdf>

³ T. Whitfield, 'Parliamentary Oversight: An Auditor-General's Perspective', *Australasian Parliamentary Review*, 21(1), 2006, pp. 88-93.

⁴ V. Dunne, Strategic Review of Auditors-General. Paper presented to the Australasian Council of Public Accounts Committees (ACPAC) 14th Biennial Conference, Brisbane, 20 April 2017, p. 3.
<http://www.acpac.asn.au/Conferences/2017/Strategic%20Reviews%20of%20Auditors-General%20-%20the%20ACT%20Experience%20-%20Mrs%20Vicki%20Dunne%20MLA.pdf>

Tasmanian Audit Office is subject to reviews of the efficiency, effectiveness and economy of its operations but there are no equivalent provisions for the Ombudsman. In South Australia, neither watchdog is subject to periodic statutory review.⁵ The wide variation in review practices raises questions about the value of statutory reviews and whether different review approaches are suited to different contexts.

To date, there has not been a comparative analysis of such statutory reviews in Australia to understand what they address and the approaches to reviews that Parliaments might consider in future. This article starts to fill this gap by reporting an analysis of four Auditor General reviews. Periodic statutory reviews occur for Auditors General in most Australian jurisdictions and they therefore provide a basis for a comparative analysis of how these reviews are serving their respective Parliaments. The next sections present an overview of the four statutory reviews, including relevant aspects of legislation, followed by a comparative assessment of their terms of reference.⁶

Overview of the Four Statutory Reviews

The four statutory reviews assessed in detail in this paper were selected to provide evidence of recent practice. They were the only such reviews released in 2016 and 2017. These reviews were conducted for the Auditors General of the Australian Capital Territory,⁷ Queensland,⁸ Victoria⁹ and Western Australia.¹⁰ Their key features are set out in Table 1.

The legislation establishes the nature of the review in each jurisdiction.¹¹ It also typically identifies the parliamentary committee that will have responsibility for the review, this being one of several roles of parliamentary oversight committees identified in their mandate to 'guard the guardians of integrity'.¹² It would be expected that reviews would differ between jurisdictions and between watchdog bodies within a jurisdiction. Comparisons between reviews need to allow for differences between the audit mandates and the nature of the public sectors and specific agencies being audited.

Table 1 indicates that somewhat different approaches are taken in each case. Most notably, while in three jurisdictions reviews are initiated by and reported to a parliamentary committee, in Queensland reviews are initiated by and reported to the Government. The latter approach includes consultation with a parliamentary committee and the Premier is required to table the

⁵ P. Smith and G. Carpenter, Strategic Review of the Queensland Audit Office, March 2017. <http://www.parliament.qld.gov.au/Documents/TableOffice/TabledPapers/2017/5517T493.pdf>; H. Smerdon, Strategic Review of the Office of the Queensland Ombudsman, 2012. <http://www.parliament.qld.gov.au/documents/tableOffice/TabledPapers/2012/5412T110.pdf>

⁶ An earlier draft of this paper was provided to the statutory reviewers in the four jurisdictions and their comments have helped to inform my analysis. Their contribution to improving the paper is gratefully acknowledged, as are the comments of the anonymous journal referee.

⁷ D. Pearson, 2016 Strategic Review of the ACT Auditor-General. <http://www.audit.act.gov.au/auditreports/Independent%20review%20of%20the%20office/2016%20Strategic%20Review%20of%20the%20ACT%20Auditor-General.pdf>

⁸ Smith and Carpenter, Strategic Review of Queensland Audit Office.

⁹ Deloitte, Performance Audit of the Victorian Auditor-General and the Victorian Auditor-General's Office, 2016. http://www.parliament.vic.gov.au/file_uploads/Performance_Audit_of_the_Victorian_Auditor-General_s_Office_00txBCvf.pdf

¹⁰ Vista Advisory, Statutory Review of the Performance of the Auditor General for Western Australia (the OAG Review). Final Report for the Joint Standing Committee on Audit, Parliament of Western Australia, 27 November 2015. Published as Appendix 1 in Western Australian Joint Standing Committee on Audit, Review of the Operation and Effectiveness of the Auditor General Act 2006, August 2016. [http://www.parliament.wa.gov.au/Parliament/commit.nsf/\(Report+Lookup+by+Com+ID\)/990219A1B6E07E0B4825801A000DD7AB/\\$file/ac.rev.160825.rpf.007.xx.pdf](http://www.parliament.wa.gov.au/Parliament/commit.nsf/(Report+Lookup+by+Com+ID)/990219A1B6E07E0B4825801A000DD7AB/$file/ac.rev.160825.rpf.007.xx.pdf)

¹¹ Australian Capital Territory (ACT) Auditor-General Act 1996, Queensland (QLD) Auditor-General Act 2009, Victorian (Vic) Audit Act 1994, Western Australian (WA) Auditor General Act 2006.

¹² G. Griffith, 'Parliament and Accountability: The Role of Parliamentary Oversight Committees', *Australasian Parliamentary Review*, 21(1), 2006, p. 19.

review report in Parliament; however, this represents a lower standard of independence for the review than is achieved by the legislation in the other three jurisdictions.

Somewhat different emphases in the nature of the reviews are also evident. The ACT and Victorian Acts specifically links the reviews to the concept of performance audits, while the ACT and Queensland Acts identify them as 'strategic reviews', with the ACT legislation defining a strategic review as a review of the Auditor General's functions and a performance audit of the Auditor General. The Western Australian legislation specifies that the review is to include both the performance of the Auditor General's functions and the operation and effectiveness of the Act, terming it a 'performance and legislative review'. This variation is consistent with an earlier nationwide assessment of reviews, which found that legislation identified three reviews as strategic, six as concerning effectiveness and efficiency, two or three as addressing the functions of the Auditor General and two as addressing compliance.¹³ While none of the four statutes analysed here identify the higher purposes of the reviews, it can be inferred that the overall purpose of the reviews is to hold the Auditor General to account and to improve the performance of the Audit Office.

The terms of reference are set each time a review is commenced, so the scope of reviews differs over time. With the four recent reviews assessed here, the terms of reference have similarities:

- all address audit office effectiveness
- all have a focus on audit office accountability and transparency, included through aspects such as effectiveness of communication with stakeholders and measures of performance
- all have a focus on audit independence
- three have a focus on following up a previous review (ACT, Queensland and Victoria), with this not being applicable to the Western Australia, since its review was the first of its kind.

Issues specific to the context and timing of the review are also evident. For instance, the Western Australian review was required to address new powers '... to audit certain accounts of commercial activities of entities where they are carrying out the functions of an agency (follow the money audits)' and to identify 'any improvements that could be made to increase accountability of commercial entities and not-for-profit organisations that are receiving public funds for providing public services'.¹⁴

Notwithstanding such requirements to focus on specific issues, the eight common focal points apparent across the four reviews are effectiveness, compliance, processes and efficiency, accountability and transparency, resourcing, independence, legislation, and learning. These eight focal points serve the wider purpose of holding the Auditor General to account and helping to improve auditing performance. They apply to varying degrees to the various functions of the Auditor General. These functions primarily involve financial and performance auditing; however, legislation may require other associated functions. In Western Australia, for example, the functions include auditing of key performance indicators and decisions by Ministers to withhold information from Parliament. The next parts of this article examine four of the focal points identified above.

¹³ P. Smith and G. Carpenter, Strategic Reviews of the Offices of Auditors-General: The Queensland Experience. Paper presented to the Australasian Council of Public Accounts Committees (ACPAC) 14th Biennial Conference, Brisbane, 20 April 2017.

<http://www.acpac.asn.au/Conferences/2017/Strategic%20Reviews%20of%20Auditors-General%20-%20the%20Queensland%20Experience%20-%20Ms%20Phillippa%20Smith%20and%20Mr%20Graham%20Carpenter.pdf>

¹⁴ Vista Advisory, Statutory Review, p. 131.

Table 1: Overview of Four Australian Statutory Reviews of Auditors General

	ACT	Queensland	Victoria	Western Australia
Type of Review	Strategic review that includes a review of functions and a performance audit	Strategic review which includes a review of the functions and performance of the functions	Performance audit to determine if the objectives are being achieved effectively, economically, efficiently (the 'three Es') and in compliance with the Act	Review of the operation and effectiveness of the Act and performance of functions
Statutory Basis	The Act sets out the functions that include promoting accountability of public administration	The Act sets out the mandate but does not identify specific purposes	The Act sets objectives including the 'three Es' of public sector operations and activities	The Act sets out the functions but does not identify specific purposes
Terms of Reference				
Audit office effectiveness: Improving public sector performance and accountability	Value for money of performance audit by improving public sector accountability; contribution to public sector performance through reference to effectiveness	Particular focus on the new performance audit mandate and effectiveness of recommendations; standard and quality of service provided to the Parliament	Conduct and management of performance audits. Contribution to public sector accountability not included	Effectiveness of reports; a reasonable level of scrutiny; meeting Parliamentary needs
Accountability and transparency of the Audit Office	Effectiveness of communication with stakeholders	Performance indicators to monitor Audit Office efficiency and effectiveness	Monitoring and measuring Audit Office performance and effectiveness	Effectiveness of communication with stakeholders
Independence	Whether legislation safeguards independence.	By implication enables comment on independence.	Not mentioned.	Independence of the Auditor General is protected.
Learning: Response to recommendations of previous reviews	Evaluate how well the recommendations of previous review have been implemented	Consider previous review recommendations, Committee report and Government response	Effectiveness of actions to address recommendations of previous review	Not applicable (this is the first review)

A consideration of the *effectiveness* of Auditors General needs to be based on the purpose of public sector audit, which broadly stated is to improve public sector accountability and performance. Both the ACT and Western Australian reviews raised issues related to the performance audit function in the context of improving public sector accountability rather than public sector performance. For instance, the ACT review was asked to address whether performance audit provides value for money by improving public sector accountability; however, there was no specific reference to the contribution to public sector performance other than through the broad concept of effectiveness. This mirrors the ACT legislation that identifies a specific audit function of promoting accountability of public administration.

The Western Australian review was asked to address the effectiveness of reports, the level of scrutiny (including best practice topic selection) and value for money audits for the purpose of improving public accountability. The Victorian reviewer created an Audit Plan, as well as criteria to assess each of the points in the terms of reference, that were agreed by the parliamentary committee and the Audit Office. Unusually, the reviewer also established eight success factors for meeting the terms of reference, following discussions with other Auditors Generals and agreement by the parliamentary committee and the Audit Office. This provided a useful way for the review to address the large number of detailed terms of reference, which included 52 separate items.¹⁵ The other three reviews examined for this article had counts ranging from 17 to 26 items.

Regarding the focus on audit office *accountability and transparency*, the Victorian terms of reference identified this in the context of monitoring and measuring Audit Office performance and effectiveness. This included consideration of the appropriateness and veracity of the performance indicators and benchmarks used and the usefulness of measures used to assess the impact of audit activities on operations and management practices across the public sector.

In relation to *audit independence*, the Queensland review was asked to note a recent parliamentary committee report on assuring the Auditor General's independence, which the reviewers interpreted as an invitation to comment on the matters that were the subject of the committee inquiry. The ACT review specifically raised the extent to which the Auditor General's legislative mandate strengthened and safeguarded independence. The Western Australian review was asked to venture further and comment on whether the independence of the Auditor General was protected with regard to legislative safeguards, on how those legislative safeguards for independence had operated in practice and on the strength of internal Audit Office safeguards of independence.¹⁶

In relation to *learning*, in all cases where it was applicable, the reviews were asked to address responses to previous reviews. This was in itself informative but it also provided an indication of the likelihood of follow through on the accepted recommendations from the current review. As might be expected, all the reviews found that the audit offices had a strong culture of taking action in response to review recommendations. It was also evident that the audit offices responded to draft material provided prior to the finalisation of the review report and provided reasons for any recommendations that were not accepted fully. For instance, the ACT review made recommendations which addressed legislative arrangements, audit planning issues, financial and performance audit processes, resourcing, and stakeholder engagement. Most were agreed to in full by the Auditor General, several were agreed to in part or in principle and, where applicable, explanations were provided. While not commenting directly on whether it was likely they would be implemented appropriately, the review observed that most recommendations from the previous audit had been acted on in an appropriate manner.¹⁷

¹⁵ Deloitte, Performance Audit, p. 44.

¹⁶ Smith and Carpenter, Strategic Review of Queensland Audit Office, p. 132.

¹⁷ Pearson, 2016 Strategic Review.

Discussion

This section considers whether reviews are needed and whether too much is being asked of them. It also addresses issues relating to the selection of the reviewers, the role of standards for the reviews, the expectation of continuous improvement, how best to hold Auditors General to account and help improve their performance, and the application of the review lessons to oversight of other watchdog bodies.

Are periodic reviews needed?

The first issue to come out of the exploratory analysis above is whether such periodic reviews are needed at all. Based on the existence of the statutory provisions it is evident that they have been sought by parliaments for Auditors General at least. It is of note that the assessment of the content of the four periodic statutory reviews of Auditors General identified a prevailing view that parliaments are generally well served by their Auditors General.¹⁸ This is closely related to the use that parliamentary committees and Members of Parliament make of the work of the Auditors General. For instance, the Western Australian review identified a briefing provided to interested Members of Parliament and committee staff on a report, a question asked of the Minister in Parliamentary Question Time, advice provided by the Minister in response and media reporting. The Public Accounts Committee also conducted follow-up reviews of the Auditor General's reports to hold agencies accountable for implementation of report recommendations. The Committee indicated that the process helped '...Parliament measure the effectiveness of the Auditor General's work and provide insight into the impact of that work on the public sector'.¹⁹ The Queensland review similarly commented on the Queensland Parliament's use of performance audit reports and made a recommendation that the Audit Office continue to work with the Parliament to find ways to improve its communication and engagement with Members of Parliament on its performance audit reports.²⁰

It remains unclear why periodic reviews are needed for Auditors General if they are not needed for similar watchdogs. In considering future role of reviews, parliaments need to have a clear view of their purpose and to conduct regular reviews to determine whether the benefits of the reviews justify the costs and time involved. The purpose may be to hold the watchdogs to account, to help them improve their performance, or a mix of these two goals. Parliaments also need to be alert to unintended consequences, including impinging on the independence of the watchdogs involved. Griffith argues that integrity agencies need to be both independent and accountable.²¹ They are independent of the Parliament that created them and yet accountable to it, and the relationship can be understood by regarding them as satellites of Parliament.²²

The reviews need to be implemented with care, so that they balance respect for the watchdog's independence with the need for it to be accountable to the body that initiated its responsibilities and powers. Griffith notes that tensions can sometimes appear when the Public Accounts Committee '...assert[s] a more hierarchical, oversight stance towards the Auditor-General'.²³ He argues that an effective parliamentary oversight committee should include an ability to function independently of both the government and the agency it oversees,

¹⁸ See also P. Wilkins, 'Watching the Watchdogs: Periodic Statutory Reviews of Audit Offices', in D. Gilchrist and R. Pilcher (eds.), *Accounting, Governance and Accountability in the Australian Public Sector*. Abingdon: Routledge, in press (2018).

¹⁹ Vista Advisory, *Statutory Review*, p. 73.

²⁰ Smith and Carpenter, *Strategic Review of Queensland Audit Office*.

²¹ Griffith, 'Parliament and Accountability'.

²² P. Wilkins, 'Watchdogs as Satellites of Parliament', *Australian Journal of Public Administration*, 75(1), 2015, pp. 8-27.

²³ Griffith, 'Parliament and Accountability', p. 23.

have appropriate powers to call for and examine witnesses and papers, and have access to the information needed to render the agency accountable.²⁴

Asking too much?

While there is continuing support for the reviews by parliamentary committees and Auditors General, Parliaments need to consider whether they are asking too much of individual reviews. For instance, the lead Queensland reviewer commented in evidence following completion of the report that, in effect, the reviewers were carrying out four reviews, these being into legislation, efficiency, effectiveness and independence. The reviewer made clear that this issue arose from the wording of the Queensland legislation. She went on to explain that, given the breadth of the review, there was an issue that would have been worthy of reporting on that was not addressed, namely ‘... whether the Auditor-General should audit not only financial reporting but also reporting of non-financial performance information’.²⁵ The reviewer indicated that she had considered the question and decided that it was not something that she would recommend or comment on in the report as it was probably too soon for the Auditor General to be involved.²⁶

When commissioning reviews, parliamentary committees therefore also need to consider the nature and number of terms of reference. While prescribing more matters that should be covered there is a risk of having many matters treated at a high level and key issues that warrant detailed attention not receiving the attention they deserve. Potentially, the terms of reference could always focus on effectiveness and include a selection of the seven other focal points in the typology outlined earlier in this article, depending on the circumstances at the time. Giving reviewers a degree of discretion to focus on specific issues within a broadly defined purpose would mirror the approach adopted by Auditors General in the selection, scoping and conduct of performance audits. Review effort could then be focussed on the basis of considerations such as risk, materiality and significance to the Parliament and community.

Selection of reviewers

Parliamentary committees also need to consider carefully the interaction of the terms of reference with the skills and methods of the reviewer. Different reviewers bring varying strengths in terms of strategic perspectives, process improvement, compliance and drawing on the views of stakeholders. For these reasons, there may be merit in appointing a team of reviewers and supporting the reviewers by others with additional skills as required.

Committees appear to adopt different approaches to selecting reviewers. For instance, the Chair of the ACT Standing Committee on Public Accounts indicated that the reviewer was selected through a request for expressions of interest from a short list of recently retired Auditors General,²⁷ whereas Western Australia used a consultancy to conduct its performance review through a formal tender process, indicating that this was to ensure value for money, transparency and accountability.²⁸ Given the variety of options available, it would be good practice always to explain the reasons for the approach adopted. A strategic approach would

²⁴ Griffith, ‘Parliament and Accountability’.

²⁵ Queensland Finance and Administration Committee (QFAC), Public Briefing—Strategic Review of the Queensland Audit Office. Transcript of Proceedings, Brisbane, Wednesday 19 April 2017, p. 2.
<http://www.parliament.qld.gov.au/documents/committees/FAC/2017/QAOStrategicReview/trns-pb-19Apr2017.pdf>

²⁶ QFAC, Public Briefing Transcript, Wednesday 19 April 2017.

²⁷ Dunne, Strategic Review of Auditors-General.

²⁸ Western Australian Joint Standing Committee on Audit (WAJSCA), Review of the Auditor General Act 2006—Appointment of Reviewer, May 2015.
[http://www.parliament.wa.gov.au/Parliament/commit.nsf/\(Report+Lookup+by+Com+ID\)/EE0AB5B7D69C22F848257E3C002A74DD/\\$file/ac.rev.150505.rpf.003.pdf](http://www.parliament.wa.gov.au/Parliament/commit.nsf/(Report+Lookup+by+Com+ID)/EE0AB5B7D69C22F848257E3C002A74DD/$file/ac.rev.150505.rpf.003.pdf)

also see committees, or the Parliament as a whole, indicate its expectations of reviewers across a sequence of reviews.

Review standards

Committees should provide clear guidance on the standards they are expecting of the review in the terms of reference and should assess compliance with these standards. Guidance was not provided for three jurisdictions, whereas the ACT terms of reference were more specific, indicating that they were seeking an independent opinion.²⁹ They also specified that the review was to be conducted in accordance with the requirements of the Act and 'relevant professional auditing and accounting standards; and professional statements and related guidance'.³⁰ In contrast, while the legislation calls for a performance audit, the Victorian review described itself as advisory in nature and indicated that it was not '... conducted in accordance with the standards issued by the Australian Auditing and Assurance Standards Board and consequently no opinions or conclusions under these standards [were] expressed'.³¹

Continuous improvement

Parliaments should routinely be considering any gaps in the coverage or approach of their reviews. For instance, none of the four reviews commented directly of the important consideration that Parliamentary oversight should preserve and not in any way compromise the independence of the Auditor General.³²

Parliaments should also learn directly from reviews in other jurisdictions. For instance, the Western Australian review raised the concept of a Whole-of-Government Audit Committee to follow-up implementation of unassigned and cross-agency recommendations. Other Parliaments could consider this innovative proposal without waiting for the possibility it is raised in their next review.

One little recognised benefit of the reviews is the potential to gather and analyse the views of stakeholders, with the potential that some public sector staff and other stakeholders may be more forthright in their views than they would be in speaking with audit office staff, survey companies working on the auditor's behalf, or when providing comments directly to a parliamentary committee.

At the outset, parliamentary committees should be considering the role they intend to play once they have received a review report. Practices seem to vary widely, with there being no evident follow-up of the Victorian review report (other than might be expected as part of the next periodic review). The Western Australian Committee briefly summarised the content of the report by the contracted reviewer Vista Advisory and made a finding endorsing the overall assessment. It did not work through the performance issues raised, although it did draw on some of the review comments in considering the operation and effectiveness of the Act.³³ The Queensland Committee has held hearings both with the reviewers and the Auditor General and made the transcripts available publicly.³⁴ The most detailed follow-up has been by two ACT committees. One made recommendations that included the term of appointment of the

²⁹ Pearson, 2016 Strategic Review, p. 56.

³⁰ Pearson, 2016 Strategic Review, p. 58.

³¹ Deloitte, Performance Audit, p. 4.

³² See also Whitfield, 'Parliamentary Oversight'.

³³ WAJSCA, Review of the Operation and Effectiveness of the Auditor General Act 2006, August 2016.

[http://www.parliament.wa.gov.au/Parliament/commit.nsf/\(Report+Lookup+by+Com+ID\)/990219A1B6E07E0B4825801A000DD7AB/\\$file/ac.rev.160825.rpf.007.xx.pdf](http://www.parliament.wa.gov.au/Parliament/commit.nsf/(Report+Lookup+by+Com+ID)/990219A1B6E07E0B4825801A000DD7AB/$file/ac.rev.160825.rpf.007.xx.pdf)

³⁴ QFAC, Public Briefing, Wednesday 19 April 2017; QFAC, Public Briefing—Strategic Review of the Queensland Audit Office. Transcript of Proceedings, Brisbane, Wednesday 19 April 2017.

<http://www.parliament.qld.gov.au/documents/committees/FAC/2017/QAOStrategicReview/trns-pb-19Apr2017.pdf>

Auditor General, a requirement that audited agencies provide a substantial response to audit findings and recommendations for inclusion in performance audit reports, and a funding model to support growth in the performance audit program.³⁵ The Government responded that of the six committee recommendations, it agreed to two in full, agreed in principle to one, and noted the three others.³⁶ The other committee made recommendations regarding support to the Speaker in the exercise of the Speaker's functions in relation to Officers of the Legislative Assembly, including in their budget appropriations.³⁷

How to best hold Auditors General to account and help improve their performance

The benefits delivered by the reviews need to be viewed alongside the costs involved. The direct cost of the reviews is significant; for instance, the contracted cost of the Western Australian performance review was approximately \$330,000,³⁸ to which could be added the cost of the time of the audit office, Parliament and stakeholders. Potentially linked to a consideration of the cost of reviews is the interval between reviews. The Western Australian parliamentary committee considered this and confirmed its view of the appropriateness of the five-year interval in that State between performance reviews, noting there are other intervals in other jurisdictions. It also considered that these reviews should be linked to the term of appointment of an Auditor General, recommending they occur in the second and seventh years of an Auditor General's ten-year contract.³⁹

This in turn raises questions about the most appropriate approach to the reviews in different contexts. Options that have been identified include independent review and publication of review reports and reviewers appointed by parliamentary committees to assess effectiveness, review the Auditor General's functions and consider any other strategic issues relevant at the time of the review. There are other possible ways of assessing efficiency and compliance; for example, *ad hoc* reviews by an office's independent auditor or by another independent assessor.⁴⁰

More generally, it is worth considering whether periodic reviews are the best option compared with a standing review function. Performance audit is based on risk-based coverage rather than scheduled audits at specified intervals, so this approach could be seen as equally applicable to the oversight of audit offices.⁴¹

The Chair of the Victorian Public Accounts and Estimates Committee has queried whether having separate appointments for the financial and performance audits of audit offices is preferable to the dual role through a single appointment, as is the case for the Australian National Audit Office. He also questioned whether the performance audit should include a legislative review or be separate from it.⁴²

³⁵ ACT Standing Committee on Public Accounts, Inquiry into 2016 Strategic Review of the ACT Auditor-General – Recommendations of Report, 2016.

http://www.parliament.act.gov.au/_data/assets/pdf_file/0020/910055/8th-PAC-29.pdf

³⁶ ACT Government, Government Response to the Standing Committee on Public Accounts Report 29/2016: Inquiry into 2016 Strategic Review of the ACT Auditor-General – Recommendations of Report, 2016.

http://www.parliament.act.gov.au/_data/assets/pdf_file/0009/913914/8th-PAC-29-Strategic-Review-of-AG.pdf

³⁷ ACT Standing Committee on Administration and Procedure, Inquiry into Provisions of the Legislative Assembly (Office of the Legislative Assembly) Act, 2016. http://www.parliament.act.gov.au/_data/assets/pdf_file/0019/912511/Report-Inquiry-into-Provisions-of-the-Legislative-Assembly-Office-of-the-Legislative-Assembly-Act-2012.pdf

³⁸ WAJSCA, Review of the Auditor General Act 2006—Appointment of Reviewer.

³⁹ WAJSCA, Review of the Operation and Effectiveness of Auditor General Act 2006.

⁴⁰ Smith and Carpenter, Strategic Reviews of Auditors-General.

⁴¹ See, for example, Independent Auditor, Review of Communications Processes: Australian National Audit Office, 2015. https://www.anao.gov.au/sites/g/files/net616/f/ANAO-External_Audit_Review_of_Communication_Processes.pdf

⁴² Pearson, Strategic Reviews of Auditors-General, p. 3.

Application to other watchdogs

In considering whether the observations based on the four recent audit reviews have application to other watchdogs, there are reasons to favour consistency across watchdogs and other reasons to favour adopting quite different approaches between watchdog types. Queensland, which is the one jurisdiction that has periodic statutory reviews of both its Auditor General and Ombudsman, has defined both of these as strategic reviews. The most recent review of the Ombudsman, which made 57 recommendations, has broad similarities with the more recent review of the Auditor General.⁴³ The report into the Ombudsman was assessed by a parliamentary committee, which provided comments on 24 of the reviewer's recommendations, including detailed comments on proposed amendments to the *Ombudsman Act 2001*.⁴⁴

Reasons that can be posited for different treatment of watchdogs include the differences between the watchdog roles. While it is difficult to define precisely the watchdogs that could be covered by such reviews, the designation 'Officer of Parliament' provides an initial guide. In at least one jurisdiction in Australia, these are the Auditor General, Ombudsman, Electoral Commissioner, Integrity Commissioner, Information Commissioner, an anti-corruption agency and an anti-corruption oversight agency.⁴⁵ It is evident from this list that there are diverse functions involved. Not all have a primary role of supporting Parliament in its role of holding Government to account. It is also evident that, in relation to anti-corruption agencies, in some jurisdictions there is another 'Officer of Parliament' to oversee their work. More generally, it has been observed that there is a web of oversight relationships between watchdogs.⁴⁶ In the Western Australian context this includes:

- the Auditor General audits all the other watchdogs and the office is itself audited independently
- the Ombudsman has coverage over the Public Sector Commission (PSC), Auditor General and Commissioner for Children and Young People (CCYP) in relation to their functions as CEO or Chief Employee;
- the Information Commissioner has coverage over the PSC and CCYP;
- the PSC can undertake reviews or special inquiries of all the watchdogs or their offices;
- the Corruption and Crime Commission (CCC) has standard oversight roles other than for the Parliamentary Inspector of the CCC and itself; and
- the Parliamentary Inspector of the CCC has coverage over the CCC.⁴⁷

This web of oversight is not in general based on periodic as distinct from 'when needed' reviews. The notable exception is the annual financial audit role of Auditors General. Perhaps it is this tradition that has influenced the view that the Auditor General should be subject to periodic review.

⁴³ Smerdon, Strategic Review.

⁴⁴ Queensland Legal Affairs and Community Safety Committee, Report on the Strategic Review of the Office of the Queensland Ombudsman, 2012. <http://www.parliament.qld.gov.au/documents/committees/LACSC/2012/StrategicReviewOmbudsman/121122-rpt-15.pdf>

⁴⁵ Wilkins, 'Watchdogs as Satellites'.

⁴⁶ W. Martin, Forewarned and Four-Armed—Administrative Law Values and the Fourth Arm of Government. Whitmore Lecture, Sydney, 1 August 2013. <http://www.supremecourt.wa.gov.au/files/Whitmore%20Lecture%202013%20Chief%20Justice%20Martin%201%20Aug%202013.pdf>

⁴⁷ P. Wilkins, J. Phillimore and D. Gilchrist, Collaboration between Watchdogs: Learnings from the Western Australian Experience, November 2015. <http://www.curtin.edu.au/research/icipp/local/docs/master-collaboration-between-watchdogs-report-nov-2015.pdf>

The eightfold typology developed in this article from the four recent audit reviews could be used when considering the best approach for individual watchdogs. The purpose and areas of focus are broadly applicable across a range of watchdogs, as they represent aspects of good governance applicable to a broad range of independent accountability agencies. However, variations would be required to accommodate the different functions involved. For instance, for an Ombudsman the functions would include complaint resolution and own-motion investigations in place of the common audit functions of financial and performance auditing.

Options other than periodic reviews, including the approach of having a standing reviewer or performance auditor have the advantages of targeting review resources to the areas of greatest need. If more than one watchdog is involved, this increases the likelihood of transferring lessons learnt between watchdogs. It would be likely that subject area expertise would need to be accessed; however, this approach would have the benefit of sharing lessons learned and better practices across watchdogs.

Similarly, Parliament could have one committee to which the reviewer or performance auditor would report. This committee could also usefully have the role of appointments and setting of budgets. This approach would not restrict the provision of individual watchdog reports to the most relevant committee, this potentially including a mix of subject-area, public accounts and anti-corruption committees.

However, the differences between the functions tend to mitigate against centralisation and consistency of approach, and each case needs to be considered on its merits, taking particular account of the jurisdictional context. To this end, it would be timely for each Parliament to review the potential for greater centralisation and consistency in relation to periodic reviews across all its watchdog bodies.

Conclusion

The assessment of the four periodic statutory reviews of Auditors General has identified a typology for such reviews that enables comparative analysis. It has also helped inform consideration of the reviews of a wider range of watchdogs. It might even assist in reviews of parliamentary oversight committees, since it can be difficult for these committees to judge their own value and effectiveness. This could be addressed through periodic reviews of the costs and benefits of their reports and work by an external body.⁴⁸

While there is widespread support for some kind of parliamentary oversight of watchdogs, there is a need to consider at intervals whether periodic reviews are providing value-for-money and whether there would be greater benefit in adopting other approaches. Decisions in this regard should take account of the perspectives of Members of Parliament, watchdogs and other stakeholders to ensure that the dual purposes of accountability and improvement are being enhanced.

Specific issues that warrant consideration include:

- regular review of the purposes, benefits and costs of periodic statutory reviews
- terms of reference that balance breadth and depth, consistent with the intended purposes of the review
- a strategic approach across a sequence of reviews
- an explanation of the selection of reviewers
- provision of guidance on, and assessments of compliance with, review standards

⁴⁸ P. Pearce, 'Parliamentary Oversight from Parliament's Perspective: The NSW Parliamentary Committee on ICAC', *Australasian Parliamentary Review*, 21(1), 2006, pp. 95-101.

- consideration of the role to be played by the committee from the outset of each review
- adoption of an approach suited to the context, including the choice between periodic reviews and *ad hoc* reviews by an independent auditor
- review the potential for greater centralisation and consistency in relation to periodic reviews across all watchdogs.

The last point has been taken up in a recent Victorian Parliamentary Research Paper on the independence of Parliament, which made a number of observations applicable uniformly to all the Independent Officers of Parliament. This Paper did not consider the role of periodic statutory reviews in particular, but it noted the accountability arrangements in place for each of the five Victorian Independent Officers.⁴⁹ Three of Victoria's watchdogs have also recently called for consistent approaches to their oversight and accountability, with arrangements that '... reflect their status as independent officers of the Parliament and emphasise accountability directly to the Parliament. Oversight arrangements should be efficient, effective and proportionate to the risk the offices present'.⁵⁰ These developments suggest that there may at least be an appetite for increased consistency across statutory reviews of watchdogs in those jurisdictions where parliaments take a collective view of their Officers of Parliament.

⁴⁹ J. Breukel, I. Dosen, C. Grover, B. Lesman, C. Macvean and H. Rosolen, Independence of Parliament. Research Paper No. 3, Parliamentary Library & Information Service, Department of Parliamentary Services Parliament of Victoria, 2017.

<http://www.parliament.vic.gov.au/publications/research-papers/send/36-research-papers/13807-independence-of-parliament>

⁵⁰ Victorian Auditor-General, Ombudsman and IBAC, Joint submission from the Auditor-General, the Victorian Ombudsman and IBAC, 20 May 2016, p. 2.

http://www.dpc.vic.gov.au/images/documents/Community_Consultations/Joint_submission_from_IBAC_Auditor-General_and_Ombudsman.PDF