



**REPORT OF THE**

**STANDING COMMITTEE ON PUBLIC ADMINISTRATION**

**OVERVIEW REPORT 2000**

Presented by Hon Kim Chance MLC

Report 18

## **STANDING COMMITTEE ON PUBLIC ADMINISTRATION**

### **Date first appointed:**

November 7 1996

### **Terms of Reference:**

See Appendix 1

### **Members as at the time of this report:**

Hon Kim Chance MLC  
Hon Barbara Scott MLC  
Hon Helen Hodgson MLC  
Hon Barry House MLC  
Hon Dexter Davies MLC  
Hon Cheryl Davenport MLC

### **Staff as at the time of this inquiry:**

Ms Christina Eftos, Advisory Officer  
Ms Kate Fitzgerald, Committee Clerk

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**REPORT OF THE STANDING COMMITTEE ON PUBLIC ADMINISTRATION**

**OVERVIEW REPORT 2000**

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**1 ESTABLISHMENT OF THE COMMITTEE**

- 1.1 The Standing Committee on Public Administration (“Committee”) was first established in November 1996 and replaced the Standing Committee on Government Agencies which had been in operation since April 1982 (“Government Agencies Committee”).
- 1.2 The dissolution of the Government Agencies Committee and the establishment of the new Committee were effected on November 7 1996 by amendments to the Legislative Council Standing Orders. As a result of these amendments all material and documentation previously belonging to the Government Agencies Committee became the property of the new Committee. This has given the Committee the jurisdiction to inquire into, and to report on the matters previously the subject of scrutiny by the Government Agencies Committee.
- 1.3 Following the prorogation of Parliament on November 12 1996, the Committee was re-appointed by the House on April 10 1997. The Committee comprises 6 members.<sup>1</sup>
- 1.4 This report provides an overview of activities of the Committee from late 1999 to November 2000.

**2 SUMMARY OF TERMS OF REFERENCE**

- 2.1 Schedule 1 of the Standing Orders establishes the Committee. The main functions of the Committee are:

*“... to inquire into and report to the House on the means of establishing agencies, the roles, functions, efficiency, effectiveness, and accountability of agencies and, generally, the conduct of public administration by or through agencies, including the relevance and effectiveness of applicable law and administrative practices; and to*

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<sup>1</sup> By motion without notice in the Legislative Council on 26 June 1997.

*consider and report on any bill referred to it by the House providing for the creation, alteration or abolition of an agency, including abolition or alteration by reason of privatization.”<sup>2</sup>*

2.2 Under the Standing Orders, an agency means:

*“... an agent or instrumentality of the State Government, established for the purpose of developing, implementing or administering any program or policy with a public purpose or any such program or policy that relies substantially for its development, implementation or administration on public monies or revenue;...*

*and any person empowered by a written law to make a decision enforceable at law whether by that person or otherwise”.<sup>3</sup>*

2.3 In essence, the main functions of the Committee are to monitor, examine and review the application of executive power within the framework of government policy and administrative law. The expanded jurisdiction of the Committee overcomes the perceived restraints on the ability of the former Government Agencies Committee to provide a comprehensive overview of public administration, and the role played by agencies in this context.

### **3 MEMBERSHIP AND STAFF**

#### **Members**

- 3.1 Hon Kim Chance MLC (ALP) (Chairman) first appointed to the Committee on April 10 1997 (previously a member of the Government Agencies Committee since August 3 1993).
- 3.2 Hon Barbara Scott MLC (LPA) (Deputy Chair) first appointed to the Committee on April 10 1997 (previously a member of the Government Agencies Committee since May 11 1994).
- 3.3 Hon Cheryl Davenport MLC (ALP) first appointed to the Committee on April 10 1997.
- 3.4 Hon Barry House MLC (LPA) first appointed to the Committee on April 10 1997 (previously a member of the Government Agencies Committee since May 10 1990).

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<sup>2</sup> Schedule 1, Legislative Council of Western Australia Standing Orders “Standing Committee on Public Administration”, Terms of reference 3 (a) and (b).

<sup>3</sup> *Ibid*, 4 (a) and (b).

- 3.5 Hon Dexter Davies MLC (NPA) first appointed to the Committee on August 12 1998.
- 3.6 Hon Helen Hodgson MLC (AD) first appointed to the Committee on June 26 1997.

### **Staff**

- 3.7 Ms Christina Eftos has held the position of Advisory Officer since August 1999. Ms Lisa Hanna previously held the position of Committee Clerk until Ms Kate Fitzgerald replaced her in August 2000.
- 3.8 During this year two articled clerks have also provided assistance to the Committee: Mr Mark Benson and Ms Lara Anstie.
- 3.9 Mr Mark Benson undertook research for the Committee, between January and March 2000, into remedies available in circumstances of contracted out government services, under the Advisory Officer's supervision. Dr Steven Churches, General Counsel also supervised him and contributed to the report upon which the research was based.
- 3.10 Ms Lara Anstie undertook research for the Committee, between June and September 2000, on commercial confidentiality and parliamentary scrutiny under the Advisory Officer's supervision.

## **4 OUTLINE OF THE COMMITTEE'S ACTIVITIES FOR THE CURRENT YEAR**

### **Reports**

- 4.1 Report No. 15 of the Standing Committee on Public Administration - The Appeals and Review Processes for Western Australian Universities (tabled June 1 2000).
- 4.2 Report No. 16 of the Standing Committee on Public Administration – The Remedies Available to Recipients of Contracted-Out Government Services (Discussion Paper No. 4) (tabled September 5 2000; addendum tabled October 10 2000).
- 4.3 Report No. 17 of the Standing Committee on Public Administration – Parliament and Commercial Confidentiality – Contracts between the Public and Private Sectors (Discussion Paper No. 5) (tabled November 22 2000).

### **Current Inquiries**

#### *Inquiry into the Recording of Interests in Authorisations under the Fish Resources Management Act 1994*

- 4.4 The Committee has:
- 4.4.1 received and considered written submissions; and

- 4.4.2 conducted a hearing with Mr Peter Rogers, Executive Director and Mr Anthony O'Conner, Registrar, Fisheries WA on October 13 1999.
- 4.5 The Committee resolved to suspend further inquiry into this matter until March 2001 and has informed the relevant stakeholders.

*A Case Study into Contracting-Out in the Western Australian Public Sector: Inquiry into the Contracting-Out of Services at Royal Perth Hospital*

- 4.6 The Committee has received and considered written submissions.
- 4.7 The Committee resolved to suspend further inquiry into this matter until March 2001 and has informed the relevant stakeholders.

*Inquiry into Land Clearing Applications*

- 4.8 The Committee has:
- 4.8.1 received and considered written submissions;
  - 4.8.2 conducted a hearing with Mr and Mrs Dennis Martin on August 9 2000;
  - 4.8.3 conducted a hearing with Mr Jim Ferguson and Mr Charles Kenneison on August 9 2000;
  - 4.8.4 conducted a hearing with Dr Paul Vogel, Director Environmental Systems, Mr Kim Taylor, Director Evaluation Division and Mr Ben Carr, Environmental Officer, Catchments Branch, Department of Environmental Protection on October 18 2000;
  - 4.8.5 conducted a hearing with Mr Andrew Watson, Deputy Commissioner of Soil and Land Conservation on November 15 2000; and
  - 4.8.6 conducted a hearing with Mr Bernard Bowen, Chairman, Dr Libby Mattiske, Deputy Chairperson, Environmental Protection Authority and Mr Graeme French, Executive Officer to the Environmental Protection Authority on November 22 2000.
- 4.9 The Committee has been unable to report this year as its inquiry is incomplete and at a sensitive stage.



- 4.10 The Committee presently intends to report in two stages: the first stage focusing on the statutory framework issues; and the second stage focusing on equitable issues arising from the submissions, such as compensation. In preparation for the second stage report, the Committee may consider conducting hearings in country areas in the future.

### **Preliminary Investigations**

#### *Ill-Health Allegations – Chemical Spraying in the Kimberley Region*

- 4.11 The Committee has received letters from former employees of the Agriculture Protection Board, Hon Tom Stephens MLC and members of the public, requesting that the Committee inquire into ill-health allegedly resulting from chemical spraying of herbicides by the Agriculture Protection Board in the late 1970's and early 1980's in the Kimberley region.
- 4.12 The Committee has presently decided not to commence a formal inquiry into this matter but has to date carried out the following by way of preliminary investigation:
- 4.12.1 written to the Agriculture Protection Board and Agriculture WA requesting information and has considered the responses received;
  - 4.12.2 conducted a hearing with Mr Robert Delane, Executive Director, Agriculture Protection, Agriculture WA on October 13 1999;
  - 4.12.3 written to the Department of Environmental Protection requesting information, which required testing on the relevant sites where chemicals were allegedly stored, and has considered the responses received;
  - 4.12.4 conducted a hearing with Dr Bryan Jenkins, Chief Executive Officer and Mr Peter Skitmore, Director of the Regional Services Division, Department of Environmental Protection on September 20 2000; and
  - 4.12.5 written to the Minister for the Environment requesting that the matter be directed to the Department of Environmental Protection, as the agency responsible for the establishment of the Working Group on Environmental/Health Issues.<sup>4</sup>

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<sup>4</sup> The establishment of this Working Group was prompted by the Committee's recommendation in its Report 12, *Administration of Environmental Complaints Relating to Public Health: A Case Study*, September 1999.

*Cost of Accountability*

- 4.13 The Committee contacted various government agencies with a view to considering an inquiry into whether there was an increased administrative burden on bodies receiving government funding to account for and justify funding received.
- 4.14 The Committee has presently decided not to commence a formal inquiry into this matter but by way of preliminary investigation has written to and considered information from the following sources:
- 4.14.1 Council on the Ageing (WA);
  - 4.14.2 WA Council of Social Services;
  - 4.14.3 Chamber of Commerce and Industry;
  - 4.14.4 Small Business and Enterprise Association Inc.;
  - 4.14.5 Department of Main Roads, WA;
  - 4.14.6 Education Department of WA;
  - 4.14.7 Health Department of WA;
  - 4.14.8 Department of Contract and Management Services;
  - 4.14.9 Office of Auditor General;
  - 4.14.10 Ministry of the Premier and Cabinet;
  - 4.14.11 Treasury Department of WA;
  - 4.14.12 Western Australian Municipal Association; and
  - 4.14.13 The Minister for Works; Services; Citizenship and Multicultural Interests.

**5 CONCLUSION**

- 5.1 Throughout the year the Committee has monitored and examined, with interest, aspects of public administration in this State, particularly with a view to assessing the process involved in, and the impact of privatisation, contracting-out and outsourcing of government services.

A handwritten signature in black ink, appearing to read 'Kim Chance', written in a cursive style.

**Hon Kim Chance MLC  
Chairman**

**Date: November 22 2000**



**APPENDIX 1**

**TERMS OF REFERENCE FOR THE STANDING COMMITTEE ON  
PUBLIC ADMINISTRATION**

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Schedule 1 of the Standing Orders establishes the Standing Committee on Public Administration.

The Terms of Reference for the Standing Committee are:

- “1. A Standing Committee on Public Administration is established.
2. The Committee consists of 6 members.
3. The functions of the Committee are:
  - (1) to inquire into and report to the House on the means of establishing agencies, the roles, functions, efficiency, effectiveness, and accountability of agencies and, generally, the conduct of public administration by or through agencies, including the relevance and effectiveness of applicable law and administrative practises;
  - (2) to consider and report on any bill referred to it by the House providing for the creation, alteration or abolition of an agency, including abolition or alteration by reason of privatisation; and
  - (3) except as provided in Standing Order 339(c), the Committee shall not proceed to an inquiry whose sole or principal object would involve consideration of matters that fall within the purview, or are a function, of another Committee.

4. In this order:

"Agency" means-

- (a) an agent or instrumentality of the State Government, established for the purpose of developing, implementing or administering any program or policy with a public purpose or any such program or policy that relies substantially for its development, implementation or administration on public monies or revenue;

- (b) any person empowered by a written law to make a decision enforceable at law whether by that person or otherwise,

and, where appropriate, includes any agency officer or employee acting, or having ostensible authority to act, as the agent or delegate of the agency, but does not include:

- (c) a House of the Parliament, or any Committee or member of either House, or any officer or employee of a department of the Parliament;
- (d) a court of law or a court of record, or a judge or other member of either court;
- (e) any person whose functions are solely of an advisory nature and the failure to obtain or act in accordance with advice given by that person does not invalidate or make voidable a decision made by another person;
- (f) a police officer or other person in the course of exercising a power conferred by a written law to arrest or charge a person with the commission of an offence, or to enter premises and seize or detain any object or thing;
- (g) a local government within the meaning of the Local Government Act 1995."