

PUBLIC ACCOUNTS COMMITTEE

INQUIRY INTO AMENDMENTS TO THE PUBLIC SECTOR MANAGEMENT ACT 1994 (WA)

**TRANSCRIPT OF EVIDENCE
TAKEN AT PERTH
WEDNESDAY, 2 APRIL 2014**

SESSION ONE

Members

Mr S.K. L'Estrange (Chair)
Mr B.S. Wyatt (Deputy Chair)
Mr W.J. Johnston
Mr M.H. Taylor
Mrs G. Godfrey

Hearing commenced at 9.34 am

Professor MICHAEL WOOD,
Public Sector Experience and Academic, University of Notre Dame Business School,
examined:

The CHAIR: Professor, thanks so much for giving up your time to assist us with our inquiry today into the Public Sector Management Act and role of the Public Sector Commissioner, particularly given your experience. We are grateful that you have made yourself available.

Prof. Wood: Thank you, chair. I am very pleased to be here.

The CHAIR: I will just read you an opening statement, which gives the parameters of how this hearing works. On behalf of the committee, I thank you for your appearance today. At this stage, I would like to introduce myself and the other members of the committee. I am Sean L'Estrange, the member for Churchlands, and the committee chairman. To my left is Ben Wyatt, the deputy chairman and member for Victoria Park. Our fellow committee members are Glenys Godfrey, the member for Belmont and Matt Taylor, the member for Bateman. We are anticipating that Bill Johnston, the member for Cannington, will join us at some point this morning.

Today's hearing is a proceeding of Parliament and warrants the same respect that proceedings in the house itself demand. Even though you are not required to give evidence on oath, any deliberate misleading of the committee may be regarded as contempt of Parliament. Before we commence I have a number of procedural questions I need you to answer. Have you completed the "Details of Witness" form?

Prof. Wood: Yes, I have.

The CHAIR: Do you understand the notes at the bottom of the form?

Prof. Wood: Yes.

The CHAIR: Did you receive and read an information for witnesses briefing sheet regarding giving evidence before a parliamentary committee?

Prof. Wood: Yes, I did.

The CHAIR: Do you have any questions relating to your appearance before the committee today?

Prof. Wood: No, I do not; except to say thank you for the parking arrangements. It was very easy.

The CHAIR: Please state your full name, business address and the capacity in which you appear before the committee.

Prof. Wood: My full name is Michael Cunningham Wood. Dad gave us the "Cunningham" because it is part of the Scots' heritage, but Michael Wood is my operational name. I am an adjunct professor at Notre Dame. Effectively I work from home, which is in City Beach. I am one of your constituents, Mr Chairman.

The CHAIR: That is very good to know, professor!

Prof. Wood: I appear before the committee first of all because of my academic work, but also because of my fairly long background in matters involving the public sector. I taught public policy at a couple of Australian universities. I was secretary for local government at a time of reform, particularly around the time of the Local Government Grants Commission, which I chaired and got into good condition. I was the second last public service commissioner before Dr Ken Michael.

The CHAIR: Today's hearing has been called as part of the committee's inquiry into amendments to the Public Sector Management Act. During today's proceedings, the screen to my left may display relevant aspects of your submission and the act to assist members. Before we move to questions, would you like to make a brief opening statement addressing the inquiry's terms of reference?

Prof. Wood: Thank you. Just as a matter of correction, my submission had "2020" on the front page—that might have been prophetic—but it should read "2010". On the second page, I dropped an "s" from the word "department". My apologies for those slips.

The committee's terms of reference, particularly those involving the appointment and the management of chief executive officers and monitoring of standards and codes of conduct and the commissioner's instructions, are all important and central to the state. The role of the commissioner, as you know, has a long history, and as the public sector has grown the functions of government have changed and altered and that has required various legislative adjustments from time to time. The Public Sector Management Act 1994 has proved something of a problem. A number of reviews have been conducted. I think Mr Fielding made at least one or two reviews of the act. One of the sources is that the act went for specificity rather than breadth. The previous public sector legislation was of a broad enough nature to allow the public service commissioner some flexibility in the operation of the office. The more detailed legislation is in a general sense, the more prospects for legislation to be illegal; I mean for acts to be regarded as committing an offence. An office like that of the Public Sector Commissioner does need some flexibility. If one look across the breadth of the public sector, quite apart from the extraordinary talent that is in the sector—engineers, scientists, doctors, lawyers, psychologists, paralegal and parahealth people and so on—there is a great fund of innovation and imagination. Those members of the state public sector can be constrained by the development of a risk-averse environment. One of the challenges for the leadership of both the agencies and the Public Sector Commission is to try to release this enormous potential. For that reason, I prefer something to have a measure of flexibility that can encourage and nurture those possibilities.

The CHAIR: Your background obviously led you to being a commissioner. Can you step us through your background and the rationale behind the introduction of the 1994 act.

[9.40 am]

Prof. Wood: I graduated as an economist, but my preference was in the work we did on public policy. My two university professors, Professor Subramaniam and, later, Professor Gordon Reid, gave me an enthusiasm for understanding more about the operations of Parliament and the nature of public policy, particularly of local government, which was one of Gordon Reid's major interests. Following graduation, I taught here and then interstate. I continued that interest with the people I worked with, particularly at the University of Tasmania. I began to write and publish in areas of public policy, as I did when I returned here to Curtin and UWA. The fundamental philosophy that has motivated me has been a notion of public service. It does not matter whether one is teaching in the public sector or working in the public sector. It is about trying to use one's talents—this sounds like a terrible cliché—for the betterment of others who do not have the same privileges that my baker dad and my mother gave me. The work of the 1994 act really followed my departure from the public sector. The work arose from the findings in the public sector during the royal commission into the business dealings with the WA government. There are sections in the papers and the report from the commissioners which raise questions about the appointment of chief executive officers and the role of the public service commission. Prior to my departure, I recommended to the previous government that we review the existing public service legislation. The timing was wrong and we did not get very far in reviewing that work. It was my intention—again this is a long debate about central powers versus delegated authorities—that any amendments to the public service act should do their best to encourage more responsibility at the chief executive officer level and have the

public service commission act as, in a sense, the chairman of the board, where others would carry through work based on general principles. I left before the substantial drafting had begun on the new act, so I am not much help to you there.

The CHAIR: Have you had an opportunity to look at the 2010 amendments?

Prof. Wood: Yes, I have.

The CHAIR: What are the most significant changes by way of shortcomings or strengths?

Prof. Wood: I guess I will offer observations about the detail of the act and a preference for flexibility against specificity. I do not think I can answer your question any more particularly precisely than that. I have looked at the amendments.

Mr B.S. WYATT: I am interested in your preference for flexibility against specificity. That is key in this role. We have been looking at other jurisdictions. Victoria, for example, seems to rely much more on conventions as opposed to trying to put too much into statute. Certainly, our legislation is much more detailed than the legislation of Victoria. Out of the states and the commonwealth itself, is there a best practice generally and specifically with respect to the appointment and performance management of chief executive officers or directors general?

Prof. Wood: I think one could begin with some principles, such as open and competitive advertisements for positions and the formation of a panel that the Public Sector Commissioner might or might not sit on, a panel that includes at least one another CEO, but also people from outside the public sector. The possibility of using appropriate search organisations, if that is necessary and desirable. My practice was to consult with ministers once we put a shortlist together. The intention of that was not to see whether a person was amenable in a political sense to minister, but to make sure that they could work together.

Mr B.S. WYATT: On that, how would you get that shortlist together?

Prof. Wood: One would review written applications and not always take references beforehand, but take them with applications.

Mr B.S. WYATT: But you got the shortlist together.

Prof. Wood: And then a panel would work on the shortlist or the officers working with me would scrutinise the applications and see whether the applicants met the broad selection criteria. If they did not meet the criteria or did not address them, generally they would not be included on the shortlist.

Mr B.S. WYATT: Then you would go to the minister with a shortlist of, say, three people, all of whom were able to do the job?

Prof. Wood: The panel would meet and discuss it and maybe interview five or six applicants and come up with a refined shortlist. They would also come with a recommended applicant. I would talk to the minister about the three on the shortlist, but I would make a decision on one applicant; in other words, I would recommend to cabinet, to the government for executive council, the appointment of one person. Some of my successors provided cabinet with two or three names and let cabinet make a choice. I am not so keen on that. I think that runs the risk of a political rule being put over the applicants. When talking about best practice, one of the risks involved was talking to a minister about a shortlist. Ministers were generally respectful of the confidentiality involved in that. It could be dangerous for the candidates and it could compromise the minister. On one occasion, a minister accepted the recommendation and then a few days later he told me he was not so sure about the recommendation. I understood that that was because of a conversation he had had with his colleagues. There are some risks.

Mrs G.J. GODFREY: Through your experience in that process, did you ever come across a minister who wanted to see the whole list of applicants and who then questioned the outcome?

Prof. Wood: No.

Mrs G.J. GODFREY: They always took your recommendation.

Prof. Wood: Yes. But I never had a minister wanting to see who all the applicants were.

Mr M.H. TAYLOR: Do you believe that the public sector is there to serve the intent of the government of the day or is it a separate apolitical body, as much as it can be?

Prof. Wood: It is there to serve the government of the day, but service has to be tempered with the knowledge of the capacity of the public sector. To make an extreme point, one of my colleagues in the eastern states used to say “The public sector can advise a minister and warn a minister; but if the minister wants to go to hell, he has to go by himself”. The point of that is that the best ministers I worked with were open and ready to listen to ideas and suggestions about the policies they might have put on the table at an election or subsequently. The openness would be around whether the policy could be implemented, whether it was necessarily the best and how it would be resourced. There are some matters that governments do not necessarily take to an election that come up later. That comes from the ideas and the quality of the people in the public sector. There might be different views on, for example, child protection or justice and policing. It would be good for a minister to hear in a contemporary sense—this is going a bit beyond your question—but one risk for ministers is that they listen to their ministerial staff too much. The ministerial staff might raise constitutional problems when they are acting as ministers when they are not. Ministerial staff often do not have the depth of knowledge, experience or expertise that is contained in the department. While the government is served by the public sector, that service has to involve fairly comprehensive advice about the efficacy of a policy, about alternative policies that might be more effective, more cost-effective, and have a more significant impact. That will not always come from the policies that a government takes to an election.

[9.50 am]

Mr M.H. TAYLOR: I asked that as a precursor to a question about the recruitment process. I am curious to know how much engagement you had with a minister about who he wanted. For example, did he want a reform-type person? What sort of DG or CEO does the minister want for that phase of intent? You previously said that you would not necessarily consult to begin with and that you would do the recruitment process.

Prof. Wood: There was a flaw in my answer to Mr Wyatt’s question. When there is a vacancy, it is important to discuss with the minister what views he or she might have about the sort of person who will be recruited. From my perspective that rested on the skills and knowledge that were needed. Some legislation prescribes what is needed. A person might need particular qualifications before he or she can be considered for office. When you talk about the sort of person a minister might want, what do you have in mind?

Mr M.H. TAYLOR: When a department is at the start of a reforming process. It is the phase that the department is about to enter into with a new director general and whether you need a certain personality type to drive change or whether you need a different personality type to bring in a different skill set for a different direction. I was not aware, as you mentioned, that you had that initial engagement with the minister, after which you would do the recruitment process to provide a shortlist.

Prof. Wood: It helps to describe for potential applicants the nature of the work and the qualities that are sought in the job. Perhaps personality comes back to the question of flexibility. If a minister is looking for a particular personality, the Public Sector Commissioner might want to do some psychometric testing. I did not use that in my time. If the legislation is too specific, it might be that that option is not open. More generally, there are two issues about leadership in the public sector. If the leader is to be involved in change, just changing the leader or introducing a new leader is not sufficient. I remember years back Bob Wiese was looking at reform in the police. I told him that it would take between 10 and 15 years. He was taken aback by that. Some aspects of public sector

turnaround take a long time. One of the things that one regrets is that there is a team at the top rather than just one person as the leader. If a minister told me that his assessment of the department or organisation is that it is shallow, is not responding and is not getting things done, one would want to undertake a significant review of the nature of the organisation and its goals to see why there is mismanagement. If it led to issues around leadership, look at not just one change, but several changes. Some of the more substantial leadership research tells us that organisations want honesty, intelligence and future perspective and a lot of respect for workers from their leader. There are common attributes about leadership. The Public Sector Commissioner would need to discern whether applicants have the characteristics for leadership and the change that might be sought.

The CHAIR: Moving on from there, you have certainly highlighted your views about what represents best practice in appointing a commissioner and a commissioner's team. What about the performance assessment of the commissioner or the executive around the team?

Prof. Wood: There is one more point on appointment, Mr Chairman. Once the successful applicant has been nominated, there is the question of remuneration and whether any negotiations are necessary beyond that. The Salaries and Allowances Tribunal sets the remuneration. In my time at the tribunal, that was taken fairly generally. It would include a vehicle, superannuation and other matters that might affect emoluments. The commissioner might need to undertake negotiations to complete the appointment. On performance management, it is important at the beginning of a new appointee to indicate the expectations and the time frame in which those expectations are to be achieved. That ought to be done when the Public Sector Commissioner has a clear understanding of the minister's intentions, or the board's, depending on where the appointment is made. Rather than have regular performance management annually, the Public Sector Commissioner needs to do some nurturing and mentoring. Not all people coming into the service have had experience in the service. Some have had substantial private sector experience, but in my observation and experience such people have found it difficult when they batted up against the political environment. The Public Sector Commissioner ought to undertake mentoring and personal development of new appointees. At the end of the 12-month review period, settle down and see what has been achieved, what has not been achieved and the constraints for that. I am sure you are aware of those. At times it can be resources and at other times it will be priorities. It might be a priority of the minister, but not a priority of his cabinet colleagues. There are constraints on how quickly things might need to be done. That is the bare bones of best practice. For more detail, there are areas around the chief executive's relationships with other departments and ministers if so much coordination needs to be done on a service. There might be a relationship with stakeholders. The Public Sector Commissioner would need to know whether he needs to consult with stakeholders before he completes the work he is doing in the review with the CEO. There is probably teamwork within the organisation itself. How will the Public Sector Commissioner get an impression of the CEO's performance from within the organisation? Can that be clean, in the sense that it is not contaminated by people who are upset about not being promoted, about not getting the responsibilities they sought or because they had a difference of opinion with the chief executive? It is clear there are issues with financial accountability, the proper spending of funding and the implementation of policies.

The CHAIR: Just building on that financial accountability and linking it back to the government's annual budget, do you see that as implicit in the key performance indicators of a CEO?

Prof. Wood: It is a difficult one, is it not, because the CEO does not secure the funding? He or she makes a bid and discusses matters with Treasury. The expenditure review committee will make a decision about the allocation of resources internally and the department might just miss out. It is difficult in that environment to hold a CEO accountable for funds that he did not get. On the other hand, one would hope that an innovative and imaginative CEO would find alternative sources of funding or improvements in productivity—maybe the sharing of tasks with other organisations—to maximise the use of resources without having an additional financial cost. It is hard to hold them

accountable for some of those issues; however, it is different in matters for which they have direct control.

The CHAIR: In your experience has there been a link between remuneration and the achievement of key performance indicators for CEOs?

[10.00 am]

Prof. Wood: No, not in my experience. I remember a couple of occasions on which ministers approached me about some bonus arrangements or particular additional allowances for CEOs when they took on what was seen as additional burdens. I took a lot of persuading in one case. Eventually, I agreed to it, but the Salaries and Allowances Tribunal gave me hell, and they were probably right about that. It was a short-term project outside the CEO's normal responsibilities. It did have a high priority and I agreed it was something extra to that person's normal duties. If remuneration is to be tied to performance indicators, there would need to be lengthy discussions with the Salaries and Allowances Tribunal about how it could discharge its responsibilities there. The KPIs would need to be clearly controllable by the chief executive.

The CHAIR: So the short answer, I suppose, is no; they have not been linked.

Prof. Wood: I beg your pardon; yes. Sorry for digressing.

The CHAIR: That is quite all right, because I was interested in your overarching perspective on it, in any case, and now I have that, so thank you for that.

Mr W.J. JOHNSTON: On the question of remuneration, what examination has considered the motivation provided by remuneration for CEOs?

Prof. Wood: There has not been a study, but from my time as chair of the Salaries and Allowances Tribunal representations were made to us regularly by maybe half a dozen CEOs who were pointing to salaries being available for similar skills and functions in the private sector. The tribunal did not always meet the expectations or requests of public sector leaders and they stayed in the public sector. I assume those men and women had a strong commitment to public service. I am not aware of any other studies. Sorry, I cannot help you there.

Mr M.H. TAYLOR: Do you believe that there is a culture among chief executives that there are no consequences for not achieving KPIs?

Prof. Wood: It has been a few years since I have been close to them. In the time I was close to them, KPIs were being introduced, but they were not universally operating. CEOs are concerned about their reputation, standing and achievements. Whether punishment is an appropriate motivator for performance is the subject of long debates among human resource managers. The carrot can be more effective than the stick. Being able to support, praise and congratulate CEOs for what they are able to achieve is an important function of the Public Sector Commissioner. If discussions between the commissioner and CEOs are regular, it will become plain that achieving KPIs will be difficult.

I am reflecting on the question. It has reminded me about a couple of cases that I was involved in in which performance was poor. The punishment was effectively the removal of those people from their position. There was no malfeasance, no corruption, just continually poor performance. That was manifest in a number of ways, but I cannot recall the detail now. My role as commissioner was to let them know when things were not going well and to then, with appropriate concern and respect for their service and time, move them on. That is a fairly ultimate punishment for not doing a job well enough. I do not quite know how we would make that work. The KPIs would need to be ones that the CEO has within his or her control to introduce a penalty of some sort. If it is a financial penalty, the Salaries and Allowances Tribunal would need some advice because it determines the value of a position, not necessarily the person in that position. If a person is holding a position, they get the remuneration linked to that position. I do not know how to make it practical.

The CHAIR: I bring your attention to the current Western Australian Public Sector Commissioner. Do you see that role as an officer of the Parliament or an officer of the executive?

Prof. Wood: Our system has ambiguity that we have to live with. The position was created by an act of Parliament. The Public Sector Commissioner is required to report to Parliament. The convention is that that report is through the minister responsible or, if Parliament is not sitting, the Speaker gets a copy and it is later tabled. What interests me more is what the Public Sector Commissioner reports about. That is where the independence can be confirmed. It is the office of the Parliament for purposes of reporting; but the office is responsive to the government of the day for matters effecting public sector policy achievement, employment and so on, otherwise things would not work. The government might say that its resources are tight and that it needs to reduce the public sector by a couple of thousands of people. That happened in the early 1990s. We introduced a redeployment scheme and a redundancy scheme for, eventually, 3 000 public servants. That was an example of having to respond. The resources were not there and the government had to achieve particular things, so the response had to be there. If the Public Sector Commissioner is independent and an officer of Parliament, what does the commissioner report on? I have only glanced at the last two or three annual reports and there is an emphasis on compliance and on the reviews that the commissioner has undertaken. His state of the sector report could be developed as a very useful tool for talking about the demographic factors affecting the future of the service; perhaps the adequacy of resources to provide a service and how well the service is competing against the private sector for the high quality leadership that the sector and the state needs. It would be interesting to consider how the commissioner focuses on particular matters for reporting in addition to emphasis on reviews and compliance.

Mr W.J. JOHNSTON: Independent from whom? When you say that the Public Sector Commissioner is independent, who is he independent from?

Prof. Wood: Independent from the political direction of the government of the day. One would not want the Public Sector Commissioner to be told by a minister or a Premier that X, Y or Z should be appointed to a position in the public sector, for example.

Mr W.J. JOHNSTON: Other than in a chief executive role? What do you mean?

Prof. Wood: It is not beyond parliamentarians or ministers to suggest that X, Y or Z should be appointed to a level 5 or level 6 position. I cannot provide examples, but notionally it can happen.

Mr W.J. JOHNSTON: Because in the end ministers, or cabinet, decides who gets the chief executive jobs.

Prof. Wood: Cabinet does, yes. It is the Public Sector Commissioner's decision as to how many names he puts before cabinet. My practice was to put one before cabinet—namely, the person best able to do the job.

Mr W.J. JOHNSTON: I understand what you said about political interference in the middle ranks of the public service, but is there anything else that you can give as an example of them being independent?

Prof. Wood: Yes, I think so. Again, this is notional and is not an example from the past. I am not sure of the best way to tackle this. I have a daughter who left the public service. One of the reasons for her leaving the public service was the inadequacy of resources to complete her task in a very difficult job in a remote part of the state. She felt there was a harnessing of resources at the centre and inadequate resourcing both in numbers and in quality outside the centre to the regions.

[10.10 am]

It would be interesting to see whether the Public Sector Commissioner would talk about a matter like that—how much is replicated and what is the quality of the people outside the centre? Some of that could bring the Public Sector Commissioner into conflict with the government over the way

resources are allocated. That could be fairly fundamental. It could be that that is one way of demonstrating independence. Another is the nature of the matters to which the Public Sector Commissioner chooses to report on to the appropriate parliamentary committee.

The CHAIR: Before I ask you a bit about best practice and accountability of the commissioner, I draw you back to a comment you made earlier about CEOs who are not performing well. Were they removed from the service or transferred within the service?

Prof. Wood: The two who come immediately to mind left the service.

The CHAIR: Was it voluntarily or were they asked?

Prof. Wood: It was negotiated.

Mrs G.J. GODFREY: Roughly how long did that take?

Prof. Wood: I think it took the best part of six to eight months in one case.

Mr W.J. JOHNSTON: They took that length of time. Did any of them leave with more than their statutory entitlements?

Prof. Wood: No.

Mr W.J. JOHNSTON: So they just got their holiday pay and off they went.

Prof. Wood: It depends on what the contract was. I would need to look at it. I cannot be sure, but they did not get any “golden goodbyes” or whatever the phrase is.

The CHAIR: Moving to the model of accountability for the commissioner, should there be an increase in the accountability measures applicable to the Public Sector Commissioner given the increased functions and powers vested with the office?

Prof. Wood: I am aware of the Chief Justice’s observations here. I think they warrant further exploration. Community expectations generally around transparency have altered over time. It is a practical question of how that can be achieved. If the Public Sector Commissioner has to make decisions that affect public sector employment in all its guises, how can he or she be transparent about that? A decision needs to be made, something needs to be done, public service notices or admin instructions are gazetted or introduced. I do not see in a practical way how greater transparency can be achieved at the time something needs to be done. As far as the reporting arrangements for accountability go, it would be interesting and innovative to see how a parliamentary committee would discuss with the commissioner the matters it wishes to have reported to it. In other words, the initiative would not be left with the commissioner, but with this committee or a committee in the Legislative Council. They could point to five or six items as important in the coming three years and seek a response to those issues from the commissioner. I am afraid I cannot provide examples. It is a general principle and would not require legislation.

The CHAIR: Any one of the parliamentary committees could call the Public Sector Commissioner to give evidence on a line of questioning. Some of the standing committees have a direct relationship with some commissioners. For example, the Joint Standing Committee on the Corruption and Crime Commission has a direct relationship in overseeing the parliamentary inspector and the CCC commissioner. Do you see a role for a parliamentary committee in having a direct relationship with the Public Sector Commissioner?

Prof. Wood: I was groping towards that with my observations. The question implies that one committee would have regular meetings or briefings with the Public Sector Commissioner on matters or duties that the commissioner is discharging either annually or subsequent to reports or reviews that the person might have done maybe before they are provided to the Premier. That would strengthen and enhance Parliament’s traditional role, which gets lost a bit. It might bring the committee into some conflict with the executive in doing that. Whether it would need to be legislated, I am not sure. I would need to look at the legislation.

The CHAIR: Some of the other jurisdictions that we visited have advisory boards to assist and guide the Public Sector Commissioner—equivalent in those jurisdictions. Do you have a view about advisory boards linked to the Public Sector Commissioner?

Prof. Wood: I am not enthusiastic about that. Leaders of the public sector are already in a web of responsibility and accountability, which makes them risk averse. I do not know whether that is what the state needs. It might be left to the commissioner to make decisions with some input or advice from the appropriate parliamentary committee. I established a coordinating committee of chief executive officers. There were probably about eight or 10 from various agencies representing the breadth of the service. The intention was for me to be sure that what we were doing was capable of being implemented and for the CEOs to bring to the table their concerns about the future of their agencies and the future of the service. We had a couple of large seminars called “Looking Forward”. I remember on one occasion, the head of one state government department had not met the head of another, yet they were both desperately involved in the question about the future use of the state’s resources. As the state has grown, some of the informal coordinating mechanisms within the service have been lost and I wanted to bring those back and improve communication across the sector. That is the only advisory experience I have. It would be interesting to know what the other states think they will achieve. Generally, they are bigger than us. I assume you went to New South Wales and Victoria. Perhaps there is a need for buffers in the system that does exist here.

Mr M.H. TAYLOR: Part of the role of the New South Wales advisory board was some of that strategic planning for the public sector that you spoke about the commissioner’s role taking on. What do you think about an advisory board performing that role of strategic planning, as well as asking some of the more fundamental questions of the public service? For example, why are we in this space or why do we do this practice? Apparently that advisory board reports to government just as the commissioner does, but it also provides oversight to the commissioner. It is an interesting role.

Prof. Wood: Pardon my smiling, but your question has made me think of *Spy vs. Spy*. Did you ever read that magazine? If I were a New South Wales commissioner, I would be wondering about the necessity of an advisory board doing the particular functions that have been described. The commission can achieve those ends without a separate report card to government. It is another set of meetings, another set of papers, another set of support and another set of documents. Some things need to be done faster than that. The Gallop government established a strategic committee. I am struggling to remember its name, because it happened after I left. There was some sort of strategic committee that consisted of a lot or all of the CEOs.

Mr W.J. JOHNSTON: It was the strategic management council.

Prof. Wood: I know that the Barnett government has established a coordinating groups of CEOs with responsibility for a particular set of policies affecting non-government organisations which, I understand, has been very successful. Perhaps there are other models. What you do is bring people together where coordination is needed and tell them you expect the coordination to occur and try to deal with some of the bureaucratic obstacles that arise because of legislative responsibility, funding, resourcing and the distribution of resources.

[10.20 am]

Perhaps the Gallop government’s strategic management council was too large; I do not know its size. It should be something with an appropriate combination of chief executives, together with people from outside. There are excellent examples in WA of very long-term strategic thinking. For example, one can think of Wesfarmers and Woodside. These people could assist in the consideration of appropriate strategies for the longer term and ask the fundamental questions that you point to.

The CHAIR: Earlier you mentioned the notion of allowing a fair bit of flexibility and freedom for the Public Sector Commissioner to give him scope and to not be constrained by over-regulation, for want of a better term. Should we move from convention to a statutory framework or are you keen that we stay with conventions?

Prof. Wood: On the matter of aligning a parliamentary committee with the Public Sector Commissioner, it might be that some statutory adjustments are necessary; I do not know. On the question of sticking with convention, my additional question would be: is the convention failing? If it is shown to be falling short, I would prefer to get to the desired state without legislation. Apart from taking up resources and time, legislation can put constraints on what a senior officer might do and achieve if there has been a significant shortfall and improvement. Is the convention failing? That would be my question. I am not close enough these days to know whether it is.

The CHAIR: With regard to the position of Public Sector Commissioner, what elements of accountability should be in place?

Prof. Wood: The commissioner needs to be responsible for what the commissioner has to look after now—that is, the commission itself, its staffing, operation, funding and meeting the required code of ethics and so on. Beyond that, the Public Sector Commissioner needs to be sure that sector-wide practices are properly in place for recruitment, promotion, dismissal and the adherence to codes of ethics and practice. He needs to be responsible for conducting appropriate reviews as directed by the Premier, which the legislation provides for or the commissioner has taken up on his or her own initiative.

The CHAIR: Were you subjected to the accountability elements that you just mentioned when you were the commissioner?

Prof. Wood: No. Codes of ethics were being introduced. The commissioner had indicated through the administrative instructions the quality of human resource practices that were to be adopted. But they covered about 30 per cent of the public sector, not all the public sector. Generally, no.

The CHAIR: What measures were you subjected to?

Prof. Wood: I made an annual report to Parliament and I was subject to financial accountability issues. That was pretty much it.

Mr W.J. JOHNSTON: What was the difference between you reporting to Parliament and the line agency department reporting to Parliament?

Prof. Wood: Line agencies report on financial accountability and on the implementation of achievements and sometimes on things on which they had difficulties in getting done. They generally reported under what was the financial management and audit act. It has now been changed. I reported under the same legislation.

Mr W.J. JOHNSTON: This goes to the question of independence. I cannot see the difference between the reporting to Parliament by a line agency and the reporting to Parliament by the Public Sector Commissioner. They both provide an annual report, both front up at estimates hearings and both are occasionally called in by parliamentary committees. What is the difference between the two?

Prof. Wood: There would not be any difference if all agencies reported in ways that embarrassed the government of the day. Earlier I answered a question about culture. One of the cultural practices is that you avoid embarrassing the government of the day. I do not know at what point a commissioner would do that. I will go back a bit. The ways in which all CEOs are appointed is through the Public Sector Commissioner. Some CEOs are appointed with responsibilities listed in their legislation. This is material that I have not looked at for some time, but I think health and education are probably two in which the establishing legislation gives them particular responsibilities and powers. That is not the case necessarily with the other CEOs. I am just raising

the prospect. It is notional, because I cannot be sure about it. The Public Sector Commissioner might share with some other CEOs the prospect of tabling in Parliament material that would be embarrassing to the government of the day because of their statutory responsibilities. Other CEOs would not have that independence. The independence comes from the Parliament having the power to remove members of the judiciary, the Public Sector Commission and so on.

Mr W.J. JOHNSTON: If Parliament chose to remove members, how would it be done? An ordinary member of Parliament would not have a clue what is happening inside the Public Sector Commission and there is no way to find out.

Prof. Wood: We are talking hypothetically. But there are republican elements in this arrangement. The monarchical nature of the system has the executive appoint all the people we have been talking about, including the Public Sector Commissioner. If our system was more of a republican style, Parliament would appoint the Public Sector Commissioner and Parliament might appoint other CEOs. The point I am trying to make is that the commissioner has to live with the ambiguity and so does the Parliament. If Parliament were to appoint the Public Sector Commissioner, the nature of removal would be similar to the nature of appointments and removal used by the Americans. Whistleblowing is growing in our system. It is not beyond the bounds of possibility for a whistleblower to complain about the way chief executives or the Public Sector Commissioner have behaved and they will bring their matter to public attention. As I am sure you are all aware, the media loves a scrap.

The CHAIR: To conclude today's hearing, maybe you could provide an elaboration on your thoughts about whether a balance can be struck between operational independence and responsiveness to a government's policy agenda.

Prof. Wood: Yes, I believe it can. The Public Sector Commissioner is not the only person responsible for implementing what a government seeks to do. The Public Sector Commissioner could provide good advice to government about schedules, priorities, timing and the impact of its broad proposals on the public sector. In my experience, being responsive to government needs in general public sector employment means that it is possible to do that operationally. It is also possible to maintain that operational independence and the appointment of senior people to the service and to support government in assessing its performance. I can recall a couple of occasions on which it was suggested that a couple of CEOs should not be reappointed. The suggestion came from the political realm. In one case I went through with the minister responsible a list of what he wanted and what skills he thought the CEO had. At the end of the discussion, the minister agreed that the person was fine. I do not know what my successors have done when a commissioner has been invited to consider whether someone should stay on. Is that the sort of thing you were considering?

The CHAIR: I think you have answered the question.

Once again, I thank you very much for making your time available to us this morning. A transcript of this hearing will be forwarded to you for correction of minor errors. Please make these corrections and return the transcript within 10 working days of the date of the covering letter. If the transcript is not returned within this period, it will be deemed to be correct. New material cannot be introduced by these corrections and the sense of your evidence cannot be altered. Should you wish to provide additional information or elaborate on particular points, please include a supplementary submission for the committee's consideration when you return your corrected transcript of evidence. Thank you, once again, for your time.

Hearing concluded at 10.31 am
