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24 MAY 2010

The Honourable Judy Spence MP
Chair
Committee System Review Committee
Parliament House
George Street
BRISBANE QLD 4000

Dear Ms Spence

Thank you for the opportunity to provide a submission to the Parliamentary Committee System Select Committee's inquiry into how the Parliamentary oversight of legislation could be enhanced and how the existing Parliamentary Committee System could be strengthened to enhance accountability.

I fully support the Committee's focus on ensuring accountability mechanisms for agencies of government are strong and there is sufficient opportunity for appropriate scrutiny of the value of their mandate and services. In this context, I also support the Committee's consideration of the timeliness and cost effectiveness of such mechanisms.

It is apparent that a number of overlapping accountability mechanisms have evolved for independent statutory entities. When looked at in isolation each of these mechanisms (either embodied in the statutory entity's governing legislation or in Parliamentary process) has a sound and logical basis. However, when considered collectively and in practice, the reporting requirements for each duplicate thereby causing inefficiencies for the entity concerned and the potential for confusion with stakeholders. The current situation and some suggestions for consideration are outlined below.

Some inconsistencies in the structure of accountability arrangements for independent statutory entities have also developed over time, particularly where Parliamentary committees are involved. Some examples have also been highlighted below.

Organisational Context

To set the context for the discussion below, the Commission for Children and Young People and Child Guardian is an independent Statutory Body under the *Commission for Children and Young People and Child Guardian Act 2000*, the *Financial Accountability Act 2009*, *Financial and Performance Management Standard 2009* and *Statutory Bodies Financial Arrangements Act 1982*.

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As such, the Commission's accountability commitments are somewhat different to those of a department within the Queensland Public Sector.

For example, my Commission's Act requires me to control the Commission and act independently. Section 17 of the Act also clearly states that in performing the commissioner's functions and exercising the commissioner's powers I am not under control or direction of "the Minister". In this case the Minister is the Minister who is charged with administering the Commission's Act.

Notwithstanding the above comment, the Commission still has many of the same accountability commitments to Parliament as a Government department. For example the Commission's financial and non-financial performance and outlook is scrutinised by a Parliamentary Estimates Committee (using the Commission's Service Delivery Statement as the basis), and the Commission's Annual Report is tabled in Parliament by the Minister each year in accordance with statutory requirements.

Since April 2009, my performance and that of the Commission has also been scrutinised by the Social Development Committee – a select committee of the Legislative Assembly constituted for the life of the 53rd Parliament. This Committee's terms of reference include:

- monitoring and reviewing the performance by the commissioner of the commissioner's functions;
- reporting to the Legislative Assembly on any matter concerning the commissioner, the commissioner's functions or the performance of the commissioner's functions that the committee considers should be drawn to the Legislative Assembly's attention;
- examining the annual report tabled in the Legislative Assembly and, if appropriate, to comment on any aspect of the report; and
- reporting to the Legislative Assembly any changes to the functions, structures and procedures of the commission that the committee considers desirable for the more effective operation of the commission or the Act which establishes it.

The Social Development Committee also undertakes the same function with respect to the Health Quality and Complaints Commission (HQCC) and the Family Responsibilities Commission (FRC).

Reporting and Budget Process Commitments

As can be seen from the outline above, my Commission's reporting commitments to Parliament are regular, comprehensive and overlapping. For example, in a normal calendar year the Commission:

- prepares a Service Delivery Statement in May for inclusion in the June Budget papers
- responds to Questions on Notice about performance and other issues from the Social Development Committee and meets with the Committee at their discretion, but currently twice per year in May and November (in 2010 the Committee's report on the Commission's performance was tabled in April)
- responds to Questions on Notice and attends Parliamentary Estimates Committee Hearings in July (as part of the Minister for Community Services and Housing and Minister for Women's portfolio), and

- provides the Minister with an Annual Report (including financial statements) for tabling in Parliament by the end of September.

While I recognise each of these Parliamentary Committees is aligned to different Parliamentary processes, there is significant overlap between their Terms of Reference (TOR) and apparent roles. Consequently there would be some benefit from clarification and better integration from key stakeholder perspectives i.e. Parliament, Minister and Commission.

I welcome the creation of the Social Development Committee. Its TOR provides Parliament with a dedicated mechanism to scrutinise the functions and performance of independent statutory bodies and imposes a critical reporting requirement on the Committee, which ensures the implementation of its TOR.

However, it has added another layer of reporting for my Commission and in many respects on essentially similar data (albeit in different periods of the year) required to be made available by the other Parliamentary processes mentioned above.

For example, the Estimates Hearing process includes my Commission as a statutory body within the portfolio consideration of the Minister for Community Services and Housing and Minister for Women. Given the time available for the portfolio hearing, the function now performed by the Social Development Committee and the clear independence of my accountabilities and responsibilities with respect to the control and performance of the Commission, it is unclear what continuing value in terms of accountability and purpose the Estimates Committee process fulfils in examining the performance of the Commission.

The different timing of these various reporting commitments has also resulted in a labour intensive exercise for the Commission to provide accurate (or best estimate), up to date performance information in a variety of forms to Parliament. The need for this overlapping level of accountability is questionable and is certainly not clear to the Commission or stakeholders.

Consequently there may be some value in consolidating the parliamentary reporting commitments of independent statutory bodies into a more efficient reporting framework by for example removing independent statutory bodies from the Estimates Committee process and enhancing the role of the relevant Parliamentary Committee (in my Commission's case the Social Development Committee) to close any accountability gaps caused by this change.

Legislative Review

From a legislative review perspective, as outlined above the administration of *Commission for Children and Young People and Child Guardian Act 2000* is the responsibility of the Minister for Community Services and Housing and Minister for Women. In practice this means that it is the Minister's responsibility to introduce any changes to my Commission's Act into Parliament.

On the other hand, part of the Social Development Committee's terms of reference includes examination of the Commission's functions, structures and procedures and report on any changes that may improve the operation of the Commission's Act. As many of the Commission's functions, structures and procedures are tightly governed by the Commission's Act, legislative change would be necessary to effect such changes.

However, there is no formal provision for the Social Development Committee to be included in any legislative or policy development process related to the Commission's Act. In the interests of efficient government, it may be useful to include mandatory consultation with the Committee as a pre-requisite to any legislative or policy change process related to the Commission's Act or its core functions.

Consistency in Governance Arrangements

From a broader corporate governance perspective, the current state of the Parliamentary Committee system and the legislation governing various independent statutory entities has created some anomalies in the accountabilities and corporate governance of these entities. To use a number of complaints/oversight related entities as an example, some are recognised as "departments" (Queensland Ombudsman and Queensland Audit Office), while others are statutory bodies (Commission for Children and Young People and Child Guardian, Crime and Misconduct Commission and Health Quality Complaints Commission).

Some of these entities report to permanent statutory committees while others report to select committees constituted for the life of the current parliament. When looking at the similarities between the terms of reference for the Social Development Committee in its oversight of my Commission and that of the Law, Justice and Safety Committee's oversight of the Ombudsman, it is not clear why this is the case.

Further, the role of the Law, Justice and Safety Committee is clearly outlined in the Ombudsman Act 2001, but similar provisions have not been made in the *Commission for Children and Young People and Child Guardian Act 2000*. It may be prudent to consider aligning legislation governing statutory entities (where appropriate) to provide a consistent approach to the governance role provided by the relevant Parliamentary Committee.

Specifically, in light of the Social Development Committee's responsibilities for the oversight of statutory bodies there may be an argument for this Committee to become a permanent statutory committee. It may also be prudent to align the Social Development Committee's oversight responsibilities more closely to that of the Law, Justice and Safety Committee (in terms of its oversight of the Queensland Ombudsman) and include these responsibilities in the Acts governing the respective statutory bodies it oversees.

Conclusion

To summarise, the Parliamentary Committee System could be strengthened and oversight of legislation enhanced by:

- removing the overlap of responsibilities between committees, particularly where oversight of performance is concerned
- reviewing the timing of committee hearings or setting consistent reporting periods to reduce the amount of rework needed on the same performance data sets on the part of agencies and Parliamentarians
- changing the status of committees (e.g. the Social Development Committee) charged with the review of permanent statutory bodies to "permanent statutory committees"
- mandating a role for Parliamentary committees with an oversight role of independent statutory bodies in the development of legislation directly related to enabling legislation of the statutory body and budgetary processes
- reviewing the governing legislation of statutory bodies to provide consistent governance arrangements in terms of their relationship to oversight committees and Parliament

Once again I would like to thank both you and the Committee System Review Committee for the opportunity to provide input into this very important inquiry. I hope the points made in this submission are considered constructive and useful in informing the Committee's deliberations and would be happy to discuss any aspects if required.

Yours sincerely

A handwritten signature in cursive script, appearing to read 'E Fraser'.

Elizabeth Fraser
**Commissioner for Children and Young People
and Child Guardian**