



Sub# 29

31 May 2010

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

Dear Ms Spence,

**SUBMISSION TO THE REVIEW OF THE COMMITTEE SYSTEM OF THE QUEENSLAND PARLIAMENT**

I am pleased to enclose my submission to the abovementioned review. I note that your terms of reference address the question as to how the parliamentary oversight of legislation could be enhanced, with a particular focus on the examination of legislative proposals. While an outline of the current committee system in operation in the Western Australian Legislative Assembly is provided, including some examples relevant to your terms of reference, I do not make any recommendations. I can, however, offer some examples of specific cases in which committees of the Legislative Assembly have reported on existing legislation or legislative proposals.

Since the establishment of the committee system in 2001, there have been three occasions whereby standing committees of the Legislative Assembly have examined legislative proposals. The first of these occurred in 2006 when the Community Development and Justice Standing Committee conducted a review of the State's fire and emergency services legislation. Although the committee was not statutorily required to conduct out the review, the Minister for Fire and Emergency Service made a request of the committee, which it agreed to carry out.

In 2006 the Treasurer referred what later became the *Auditor General Act 2006* and the *Financial Management Act 2006* to the Public Accounts Committee and in 2008 the Education and Health Standing Committee examined the Tobacco Products Control Amendment Bill 2008.

I enclose copies of those reports for you information. Also enclosed is a copy of the Procedure and Privileges Committee's 2008 *Review of the Legislative Assembly Committee System (Part A)*, which may be of some assistance in your committee's deliberations.

Please do not hesitate to contact me or Ms Liz Kerr, Clerk Assistant (Committees) on 08 9222 7398 if you require additional information.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Peter J. McHugh', with a stylized flourish at the end.

PETER J. McHUGH  
CLERK OF THE LEGISLATIVE ASSEMBLY  
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## Committees of the Legislative Assembly

The Western Australian Legislative Assembly's committee system (the committee system) is currently comprised of nine standing committees that undertake work on behalf of the House. These are the:

- Procedure and Privileges Committee;
- Public Accounts Committee;
- Education and Health Standing Committee;
- Economics and Industry Standing Committee;
- Community Development and Justice Standing Committee;
- Joint Standing Committee on the Corruption and Crime Commission;
- Joint Standing Committee on the Commissioner for Children and Young People;
- Joint Standing Committee on the Racing and Wagering Western Australia Acts; and the
- Joint Standing Committee on Delegated Legislation.

Committee inquiries may be self initiated or referred by the Assembly, with referred inquiries taking precedence over committee-initiated activities. The Legislative Assembly's committees are guided by chapters 24 and 26 of the Assembly's Standing Orders (enclosed).

Further to the standing committees, the Legislative Assembly appoints a sessional Parliamentary Services Committee, which advises the Speaker on matters relating to the general functioning of ancillary services.

The joint standing committees have either an oversight or review role and are established in accordance with related legislation, with the exception of the Joint Standing Committee on Delegated Legislation, which is established in accordance with the Standing Orders of the Legislative Council.<sup>1</sup> The Legislative Assembly has administrative responsibility for all joint standing committees, apart from the Joint Standing Committee on Delegated Legislation, which is supported by the Legislative Council.

## Legislative Assembly Committees pre-2001

Prior to the establishment of the committee system, the Legislative Assembly was supported by the Public Accounts Committee (PAC), the Joint Standing Committee on the Anti Corruption Commission, the Standing Committee on Uniform Legislation and Intergovernmental Agreements and the Standing Orders and Procedure Committee, each of which were established on a sessional basis. In addition, single issue Select Committees were appointed by the House as required.<sup>2</sup>

The Assembly established the PAC in 1971 before in 1986 Standing Orders were amended to rename it the Public Accounts and Expenditure Review Committee. In

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<sup>1</sup> Legislative Council Standing Orders Schedule 1, s.3.

<sup>2</sup> Procedure and Privilege Committee, *Review of the Legislative Assembly Committee System (Part A)*, Legislative Assembly, Western Australia, 15 May 2008, p1.

1999, new Standing Orders were adopted and the Committee reverted to its original name.

In 1993, the Standing Committee on Uniform Legislation and Intergovernmental Agreements was established, with Terms of Reference to inquire into, consider and report to the House on matters relating to proposed or current intergovernmental agreements and uniform legislative schemes. That committee ceased to exist at the dissolution of the 35<sup>th</sup> parliament in 2001, and what was its core business is now undertaken by the Legislative Council's Uniform Legislation and Statutes Review Committee.

In 1997 the Legislative Assembly and Legislative Council agreed to establish a Joint Standing Committee to monitor and review the performance of the functions of the Anti-Corruption Commission established under the *Anti-Corruption Commission Act 1988*. That committee ceased to exist in 2004, and was superseded by the Joint Standing Committee on the Corruption and Crime Commission (see below).

Other committee activity pre-2001 was primarily undertaken by select committees, with specified terms of reference, determined by the House in the resolution establishing the committee. Select committees have a very clear mandate and once they have reported back to the House they cease to exist.

During the 1990s a number of select committees were established to inquire into such diverse matters as road safety, recycling and waste management, heavy transport, effluent disposal, and child migration. The diversity and range of these select committees gave rise to consideration of creating a series of standing, portfolio based committees.

Select committees that disband at the conclusion of an inquiry, have the potential to result in loss of corporate knowledge and expertise, and it was considered that several permanent committees, supported by permanent committee staff, could inquire into discrete areas of government activity on behalf of the House, and be referred relevant inquiries. Accordingly, the House agreed to a recommendation of the Standing Orders and Procedure Committee<sup>3</sup> and created the portfolio committees at the commencement of the 36<sup>th</sup> Parliament (2001).<sup>4</sup> Since the establishment of the committee system, the Assembly has not appointed a select committee.

## Procedure and Privileges Committee

At the commencement of each parliament, a Procedure and Privileges Committee is appointed to —

- examine and report on the procedures of the Assembly; and
- examine and report on issues of privilege; and
- wherever necessary, confer with a similar committee of the Council.

The membership of the committee consists of the Speaker and four other members as the Assembly appoints.

Traditionally this committee has focussed largely on procedural matters and conducted exercises such as modernising Standing Orders. However, in recent years

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<sup>3</sup> Legislative Assembly, *Report of the Standing Orders and Procedure Committee on Commission On Government Recommendations*, 18 June 1998, pp11-14.

<sup>4</sup> Legislative Assembly, *Parliamentary Debates* (Hansard), 30 May 2001, p.689.

its brief has included the investigation of unauthorised disclosures of committee proceedings, and providing people who believe they have been adversely referred to in the Legislative Assembly with an opportunity to request a response be incorporated into Hansard.

## Portfolio-based Committees

At the commencement of each Parliament the Speaker tables a schedule showing the portfolio responsibilities for each standing committee. Table 1 represents the allocation of portfolios as determined on 11 November 2008.<sup>5</sup>

**Table 1:**

### Portfolio Responsibilities of Legislative Assembly Standing Committees 38<sup>th</sup> Parliament

| Public Accounts Committee | Community Development and Justice Standing Committee | Economics and Industry Standing Committee | Education and Health Standing Committee |
|---------------------------|--|---|---|
| Premier                   | Indigenous Affairs                                   | State Development                         | Education                               |
| Treasurer                 | Electoral Affairs                                    | Mines and Petroleum Fisheries             | Training                                |
|                           | Women's Interests                                    | Regional Development Lands                | Health                                  |
|                           | Disability Services                                  | Tourism                                   | Mental Health                           |
|                           | Police   | Commerce                                  |   |
|                           | Emergency Services Road Safety                       | Science and Innovation                    |   |
|                           | Sport and Recreation                                 | Housing And Works                         |   |
|                           | Culture and the Arts                                 | Racing and Gaming                         |   |
|                           | Attorney General                                     | Planning                                  |   |
|                           | Corrective Services                                  | Energy                                    |   |
|                           | Child Protection                                     | Water                                     |   |
|                           | Community Services                                   | Heritage                                  |   |
|                           | Seniors and Volunteering                             | Agriculture and Food Forestry             |   |
|                           | Local Government                                     |   |   |
|                           | Citizenship and Multicultural Interests              |   |   |
|                           | Environment  |   |   |
|                           | Youth  |   |   |

The portfolio based committees have broad review functions, determined within the Standing Orders of the Legislative Assembly. They report to the House on: the outcomes and administration of the departments within the committee's portfolio

<sup>5</sup> Hon Grant Woodhams, Speaker, Legislative Assembly, *Parliamentary Debates* (Hansard), 11 November 2008, p.74.

responsibilities; annual reports of relevant government departments; the adequacy of relevant legislation and regulations; and matters referred to them by the Assembly.<sup>6</sup>

As part of each committee's terms of reference, the annual reports of the relevant government departments and authorities tabled in the Assembly stand referred to the individual committees for any inquiry the committee may make.<sup>7</sup>

## **Public Accounts Committee**

The PAC's powers and functions empower it to inquire into and report to the House on any proposal, matter or thing it considers necessary, connected with the receipt and expenditure of public moneys, including moneys allocated under the annual Appropriation bills and Loan Fund.<sup>8</sup>

The PAC has broad powers of investigation and typically initiates its own inquiries, although it may have a matter referred to it by the House, a Minister or the Auditor General, with whom the PAC has developed a working relationship. The PAC's relationship with the Auditor General has been formalised to an extent since the introduction of the *Auditor General Act 2006*, which confers specific duties on the PAC in relation to matters including the appointment of the Auditor General.<sup>9</sup>

## **The Joint Standing Committees**

Joint Standing Committees (as the name suggests) are created when both Houses of Parliament resolve to establish a committee with members drawn from both Houses, or when legislation requires their establishment. The Legislative Assembly administers: the Joint Standing Committee on the Crime and Corruption Commission (JSCCCC); the Joint Standing Committee on the Commissioner for Children and Young People (JSCCCYP); and the Joint Standing Committee on the Review of the Racing and Wagering Western Australia Acts. The Joint Standing Committee on Delegated Legislation is supported by the Legislative Council.

## **The Joint Standing Committee on the Crime and Corruption Commission**

The JSCCCC is established pursuant to section 216A of the *Corruption and Crime Commission Act 2003* to carry out certain functions conferred by that Act. The Committee is constituted at the commencement of every Parliament by resolution of the Assembly, forwarded to the Council for its concurrence. The JSCCCC consists of four members (two from each chamber) and, similar to other committees, has established terms of reference in the Assembly's Standing Orders.<sup>10</sup>

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<sup>6</sup> Legislative Assembly Standing Order 287(2).

<sup>7</sup> Legislative Assembly Standing Order 287(3).

<sup>8</sup> Legislative Assembly Standing Order 285.

<sup>9</sup> Schedule 1 subclauses 2 and 3 of the *Auditor General Act 2006* provide for the appointment of the Auditor General and require the Minister (Treasurer) to consult with the Public Accounts Committee as to the appropriate criteria for selection for appointment and, before making a recommendation under subclause (1), the Minister must consult with the Public Accounts Committee.

<sup>10</sup> Legislative Assembly Standing Orders 288 to 292.

## **Joint Standing Committee on the Commissioner for Children and Young People**

The JSCCCYP was established on motion in both Houses in the 37th Parliament on 26 June 2008 and was re-established in the 38th Parliament pursuant to Section 51 of the *Commissioner for Children and Young People Act 2006* which states that:

- (1) The Houses of Parliament are to establish a joint standing committee comprising an equal number of members appointed by each House.
- (2) The functions and powers of the Standing Committee are determined by agreement between the Houses and are not justiciable.

The motion for establishment set out the functions of the committee, which includes monitoring, reviewing and reporting to Parliament on the exercise of the functions of the Commissioner for Children and Young people, with membership fixed at two members from each House.<sup>11</sup> The motion also provided that the Standing Orders of the Legislative Assembly relating to standing and select committees will be followed as far as they can apply.

## **The Joint Standing Committee on the Racing and Wagering Western Australia Acts**

Section 122 of the *Racing and Wagering Western Australia Act 2003*, provides for a review of the operation and effectiveness of the Act to be carried out by a Joint Standing Committee of both Houses of Parliament after the expiration of 5 years from its commencement. Consequently, on 24 September 2009, the Joint Standing Committee on the Racing and Wagering Western Australia Acts was established and commenced its review, also taking into consideration the *Racing and Wagering Western Australian Tax Act 2003*.

The Committee, which is administratively supported by the Legislative Assembly, has legislatively prescribed terms of reference, and is expected to report to both Houses on 15 October 2010. It is worth noting that although the Act required a joint standing committee to be established, the committee will be dissolved at the completion of this review.

## **The Joint Standing Committee on Delegated Legislation**

The Joint Standing Committee on Delegated Legislation is administratively supported by the Legislative Council and as such is guided by Legislative Council Standing Orders. Membership is set at two members from each House and the committee is tasked with examining and reporting on whether delegated legislation (regulations) conform with prescribed criteria contained within the Legislative Council's Standing Orders.<sup>12</sup>

## **Joint Standing Committee on Audit**

Section 43 of the *Auditor General Act 2006* requires the Houses of Parliament to establish a Joint Standing Committee on Audit comprising an equal number of members appointed by each House. Under section 44 of that Act the committee would have input into the determination of the budget of the Office of the Auditor General for a financial year, with regard to be had to any recommendation as to that budget

<sup>11</sup> Legislative Assembly, *Parliamentary Debates* (Hansard), 13 November 2008, p.331.

<sup>12</sup> Legislative Council Standing Orders Schedule 1, s.3.

made to the Treasurer by the committee. Further, the Act provides that regard is to be had to any recommendation as to organisational structure or resources of the OAG made by the committee. To date there has not been agreement on the form this committee would take and as such its establishment has not yet occurred.

### **Sessional committees**

Sessional committees are appointed from session to session, ceasing to exist whenever the Parliament is prorogued. The general Standing Orders applying to standing and select committees may apply to sessional committees if the Standing Orders so prescribe. Chapter 25 of the Assembly's Standing Orders provide for the establishment of the Parliamentary Services Committee, which advises the Speaker on matters including Hansard, and building management. The Parliamentary Services Committee confers from time to time with a similar committee in the Legislative Council.

### **Legislation committees**

Legislation committees allow for detailed scrutiny of legislation to occur outside the debating Chamber. They have the power to sit concurrently with the Assembly and thus allow more efficient use of time through the simultaneous consideration of different pieces of legislation and may also sit when the Assembly is not sitting. Further information regarding legislation committees can be found in the Assembly's Standing Orders 183 to 194.

### **Estimates committees**

Each year the Legislative Assembly appoints two estimates committees to examine and report on the proposed expenditure contained in the Estimates for the various departments and agencies that are funded from the Consolidated Fund.

After the second reading of the Appropriation bills, which provides for the main recurrent and capital appropriations, the consideration in detail stage is replaced by the estimates committees.

Each committee consists of a Chairman; three members appointed by the Leader of the House and three members appointed by the Leader of the Opposition. The relevant Minister or Parliamentary Secretary responsible in the Assembly for the department, agency or enterprise under consideration, or another Minister acting in that capacity is also included on a committee.<sup>13</sup>

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<sup>13</sup> For a detailed outline of the Estimates process, refer to Chapter 21 of the Standing Orders of the Western Australian Legislative Assembly.