

Mr Colin Barnett; Chairman; Dr Geoff Gallop; Mr John Bowler; Mrs Cheryl Edwardes; Ms Murray; Mr Mark McGowan; Mr John Hyde

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**Division 5: Office of the Public Sector Standards Commissioner, \$3 284 000 -**

Mr A.D. McRae, Chairman.

Dr G.I. Gallop, Premier.

Ms M. Murray, Commissioner.

Mr P. O'Connor, Manager, Corporate Services.

Ms N. Taylor, Director of Equal Employment in Public Employment.

Mr C.J. BARNETT: I refer to the first dot point under significant issues and trends on page 122 of the *Budget Statements*, which states -

There is a need to ensure that public sector bodies and employees view ethical principles and good human resource management practice . . .

Does the Premier believe Western Power, as a public sector body, has abided by ethical principles in the appointment of and payment of \$4 000 a day to consultants to report on the fiasco of 18 February.

The CHAIRMAN: I advised the Leader of the Opposition earlier that unless a matter is particularly related to this appropriation -

Mr C.J. BARNETT: I refer to the first dot point on page 122 about ethical principles.

The CHAIRMAN: I understand that. However, Western Power is an off-budget item that was dealt with last night.

Mr C.J. BARNETT: It is a government body and my question relates to public sector management.

Dr G.I. GALLOP: Western Power is not within the ambit of the Public Sector Management Act.

The CHAIRMAN: I was trying to advise the Leader of the Opposition of that. It is not within the appropriation for this division. As it was dealt with as an off-budget item as a special session last night, it is clear that it does not relate to this division.

Mr C.J. BARNETT: Mr Chairman, we have heard about whale sharks for 20 minutes. We have heard opinions on all types of things. The first dot point for Office of the Public Sector Standards Commissioner refers to ethical principles. The Premier is responsible for public sector standards. Western Power is a fully owned public trading corporation. I asked the Premier whether he considers the payment of \$4 000 a day to individual consultants to be ethical and consistent with this objective of the Office of the Public Sector Standards Commissioner.

The CHAIRMAN: I have given my ruling on the standing orders relating to this division. To assist the Leader of the Opposition, the Premier has advised that the Office of the Public Sector Standards Commissioner has no jurisdiction over Western Power. I will move on, unless the Leader of the Opposition has a related question.

Mr C.J. BARNETT: Does the Office of the Public Sector Standards Commissioner do any work on principles about employing consultants within the public sector? Does it have a policy on that? Does the Premier have a view?

Mr J.J.M. BOWLER: It would have been nice and busy when the previous coalition Government was in power.

Dr G.I. GALLOP: A general tendering policy deals with those matters. I am advised by the commissioner that there have not been any investigations into that issue recently.

Mr C.J. BARNETT: Further to that, will the Premier undertake that the Commissioner for Public Sector Standards will look at principles about employing individual consultants?

Dr G.I. GALLOP: I will take that question on notice. The Leader of the Opposition is trying to get around the constraints to talk about this budget, which is fine.

Mr C.J. BARNETT: I am trying to make the Premier accountable for his Government paying consultants \$4 000 a day. Where is that accountability?

Dr G.I. GALLOP: This Government is totally accountable.

Mr C.J. BARNETT: The Premier has continuously dodged questions throughout the estimates committee.

The CHAIRMAN: Order, Leader of the Opposition!

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Mr C.J. BARNETT: The Premier has repeatedly failed to answer questions.

The CHAIRMAN: Order, Leader of the Opposition! I have been very patient with his calling into question my guidance to him. I have given the Leader of the Opposition very clear guidance about what the standing orders require of me and of him. Unless he has a further question on this matter, I will move on.

[12 noon]

Mr C.J. BARNETT: I find it interesting that we can chat for 20 minutes about whale sharks but we cannot talk about payments of \$4 000 a day.

The CHAIRMAN: I call the Leader of the Opposition to order for the first time.

Mr C.J. BARNETT: That is weak. To dodge that question as Premier is weak. That is as weak as it gets.

The CHAIRMAN: I ask the Leader of the Opposition to please desist.

Mrs C.L. EDWARDES: I refer the Premier to the significant issues and trends on page 122. Several dot points under output 1 relate to public interest disclosure. The commissioner recently undertook a very important questionnaire, which she reported upon. Of the respondents to the questionnaire, 53 per cent feared retribution if they reported wrongdoing or unethical behaviour. Worse still, 21 per cent knew of unethical behaviour but did not report it. Although the Premier can say that it is new legislation and that there is still a lot of work to be done on it and on education about its impacts and the protection it provides, there has been no clear strength or guidance from the Government on the legislation. It is not whistleblower legislation. No public servant is prepared to come forward and identify issues. Of the respondents to the questionnaire, 21 per cent knew of unethical behaviour but did not report it. What strategies will be put in place to target those public servants - we know of this 21 per cent - who know of unethical behaviour, in an endeavour to get them to report it?

[Ms J.A. Radisich took the Chair.]

Dr G.I. GALLOP: A sum of \$210 000 has been provided for each of the next three years. Copies of the code, the guidelines and a CD-ROM of the launch were distributed to public authorities. The code, guidelines and other relevant information for informants and public authorities are available on the web site of the Office of the Public Sector Standards Commissioner. The commissioner is compiling a register of the public interest disclosure officers within public authorities. The commissioner has established a coordination committee to assist in the implementation of the legislation. Officers within the commissioner's office have delivered presentations on request to public authorities and other bodies on the legislation. The commissioner has established a process for collecting information for the purposes of section 22 of the Public Interest Disclosure Act, which is the annual report to Parliament. Details on the number of disclosures received by public authorities and the result of any investigation conducted will not be known until the completion of the first reporting cycle. The commissioner has engaged Atticus Communication Consultants Pty Ltd to conduct market research and develop a communications strategy for the Act. The commissioner will speak for herself if she wishes. She is developing a strategy to make sure that people understand how this works, so that there will be the involvement of the public sector in these issues. Does the commissioner wish to add to that?

Ms MURRAY: The survey the member referred to is a survey we use regularly in the public sector. Those results were for up until 30 June 2003, so they represented people's perceptions prior to the introduction of the legislation. We will closely monitor any changes in those perceptions and work in with public sector agencies to ensure that their staff understand how they can go about using the procedures under the public interest disclosure legislation.

Mrs C.L. EDWARDES: I have a further question. One of the things I have been adamant about is being able to show leadership in this regard. When the freedom of information and equal -

Dr G.I. GALLOP: Which item is the member referring to?

Mrs C.L. EDWARDES: It is the same item. It is a further question. When the equal opportunity legislation came in it again dealt with the culture within the public sector. There are three whistleblowers at the moment. An inquiry is being held into the claims made by Jean Thornton. Chris Read from the Ombudsman's office has been poorly treated, given that his claims were found to be true. Even though Neil Winzer's matters have not been investigated, he has been poorly treated as a public servant and an individual. I suggest that one of the first steps that could be taken to ensure a change of culture within the public sector would be to clearly deal up-front with those identifiable whistleblowers. That would provide a level of encouragement to other public servants who may know of some unethical behaviour but are frightened to report it. It is a serious issue that is not being addressed up-front. The Government can develop codes of conduct, CDs and booklets etc, but unless it gets right down to the ground with the \$210 000 that will be provided over three years - which I think is a paltry amount - and provides some strong leadership from the top, it will never happen.

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Dr G.I. GALLOP: I believe that the Attorney General met with those three people. They raised certain issues, which he indicated he would look into on behalf of the Government. Those issues are being discussed with the commissioner, and he will meet with them again. If they have suggestions on how the Public Interest Disclosure Act can work well, obviously we have an open door so that we can listen to those ideas. That is exactly what has happened.

Mr M. McGOWAN: My question relates to output 2 and the equity and diversity in public employment. A number of dot points refer to the employment in the public sector of people with disabilities, people from culturally diverse backgrounds and so forth.

Dr G.I. GALLOP: Which page?

Mr M. McGOWAN: It is output 2 on page 129. Can the Premier give the committee some advice on the proportion of people from ethnically diverse backgrounds, people with disabilities and Aboriginal people who have positions in the public sector? How well represented are those people in a proportionate sense? I understand that some ethnic groups have high levels of representation within some parts of the public sector, although overall those groups might be under-represented in a proportionate sense. There are a lot of nuances in the statistics. How are our efforts going in that regard?

Dr G.I. GALLOP: The second progress report on the equity and diversity plan was released in December 2003. There are several main points to be made about progress as at 30 June 2003, with which this report deals. First, in terms of women in management, it is pleasing to note that the 2005 objective of 20 per cent of women in tier 1 CEO positions has already been achieved. It is up from 12 per cent in 2001. The representation of women in management tiers 2 and 3 is of concern, as there was a decline in 2002-03. Representation in tier 2 declined from 33 per cent to 27 per cent and in tier 3 from 33 per cent to 30 per cent. Some of this may be due to public sector restructuring and amalgamations, but CEOs will need to make greater efforts to meet the 2005 objectives. Overall, women comprise 20.5 per cent of the senior executive service, up slightly from 20.3 per cent in 2001. The proportion of women has been maintained during a period of reduction in SES numbers. Obviously, there is still work to be done on tiers 2 and 3. There has been encouraging progress in the representation of indigenous Australians, which is up from 2.1 per cent in 2001 to 2.4 per cent in 2003. Earlier this month the Government launched the "Insights" CD-ROM to assist agencies achieve the 2005 objective of 2.9 per cent. Representation of people from culturally diverse backgrounds is up from 4.8 per cent in 2002 to six per cent in 2003. The 2005 objective of 6.7 per cent is achievable. There has been a small rise in the proportion of youth employed in the public sector, from 4.9 per cent in 2001 to five per cent in 2003. To assist agencies achieve the 2005 objective of 5.5 per cent the Department of the Premier and Cabinet has established a youth options committee to develop more active strategies. The Minister for Youth has been pushing that issue. The proportion of people with disabilities in public sector employment has increased only marginally since 2002 from 1.2 per cent to 1.4 per cent in 2003. Significant effort is required to achieve the 2005 objective. The Government will launch the accessing ability strategy document next month to assist agencies to increase the representation of people with disabilities in the public sector and to achieve the objectives of the equity and diversity plan. I am not saying that we have achieved all the targets we set. However, we have set targets and, therefore, we can be accountable for the performance of our agencies. This is a matter that I raise at our strategic management meetings with the chief executive officers; we have been constantly on the job to make sure that these issues are not swept under the carpet.

[12.10 pm]

Mr M. McGOWAN: Mention was made of the representation of women at upper levels of, I think, tier 1, tier 2 and tier 3. What percentage of women working in those upper levels of the public sector are from ethnically diverse backgrounds?

Dr G.I. GALLOP: We will provide that answer by way of supplementary information. I will provide information on the level of involvement of people with a culturally diverse background in the senior levels of government in Western Australia.

[*Supplementary Information No A40.*]

Mr J.N. HYDE: On page 131 of the *Budget Statements* under the capital works program, reference is made to the reallocation of furniture and office equipment. I am keen to see that when people from within the public sector, particularly my constituents, make complaints to the various agencies, they do not get shoved from one building to another; for example, from the Office of the Public Sector Standards Commissioner to the Corruption and Crime Commission, the Ombudsman or whatever. They almost need to go to a one-stop shop. What are the plans within the capital works program to perhaps ease that physical separation?

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Dr G.I. GALLOP: As the member knows, there is a policy to bring together the agencies of accountability, if I can use that term, onto one site. Perhaps the commissioner can report on the progress in that regard from her point of view.

Ms MURRAY: My office has moved to co-locate with the state Ombudsman's office. We now have a shared reception and telephone service that is used by the state Ombudsman, the commonwealth Ombudsman, the Office of Health Review, the Office of the Public Sector Standards Commissioner and, by June 30, the freedom of information commissioner. We will all be co-located in the one building and use the same reception and telephone information service at that one location.

Mrs C.L. EDWARDES: Can the commissioner refer me to where ensuring that there is merit, equity and probity in human resource management in the public sector would come under output 1? I am sure that somewhere on page 126 she has referred to the number of breach claims, but not specifically. I am sure it would come under output 1. Can the commissioner tell me how many breach claims she has dealt with in 2003-04, how many of those claimed breaches were found to have existed, what those breaches related to and what is the period in which the commissioner is now handling those breaches?

Dr G.I. GALLOP: I will refer the matter to the commissioner.

Ms MURRAY: For 2003-04, I can give the member data up until 14 May. A total of 90 breach claims have come to my office, 84 of which were against the recruitment, selection and appointment standard, which is where the bulk of them always come from. Out of those 84 cases, I found five breaches in standards, one in transfer, one in secondment, one in performance management, none in redeployment, one in acting, one in grievance resolution and none in termination. To date the total number of cases I have received has been 90, six of which I have found to be in breach.

Mrs C.L. EDWARDES: And what is the period of time in which those have been handled? This is really a dorothy dixer.

Ms MURRAY: The office has a policy of turning around all breach claims within 21 days. I do not have the exact figure of how we are travelling but I can assure the member that on almost all occasions we have achieved that.

Mrs C.L. EDWARDES: The commissioner made mention of the "acting" standard. On page 127, the major initiatives for 2004-05 refer to a thematic review - I am not quite sure what that means - of the acting standard across the public sector that examines compliance with the standard. What is being done in that regard?

Ms MURRAY: I will be looking at the implementation and compliance or non-compliance with the acting standard across a range of agencies and providing a report to Parliament under my monitoring functions about how well the acting standard has been complied with. I will soon be providing to Parliament a report that I have been working on this year on how well four agencies comply with performance management standards, and the next report will be against the acting standard.

Mrs C.L. EDWARDES: Will the commissioner consider doing a review of the high number of temporary appointments within the public sector?

Ms MURRAY: In what we call a "thematic review", to which the member referred, we will be looking at all acting arrangements, however they are established, to see whether in establishing those arrangements agencies have been complying with the standard.

Mrs C.L. EDWARDES: Does that include temporary appointments? One of the big issues that this Government came to power on was the issue of permanent appointments as opposed to temporary appointments. For instance, the Department of Health has a high number of people who are employed on a temporary, three-monthly contract basis etc, and they have been around for in excess of 10 years. Is the office proposing to review that matter?

Dr G.I. GALLOP: That is not something that the Public Sector Standards Commission has been dealing with.

Mr C.J. BARNETT: I refer to output three on page 130 and appointments. Since the current Government came to power, how many chief executive officers have left the public service, who are they and how many of them have been subject to secrecy provisions or confidentiality conditions on their ability to make public comment?

Dr G.I. GALLOP: That is a public sector management question. If the Leader of the Opposition wants to get information on the overall question of people who have left the public sector, it should have been asked in the last section we dealt with. However, that does not matter. For supplementary information we will provide for the Leader of the Opposition a list of all of those chief executives who have left the public service. Of course,

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there have been a lot of amalgamations in our system. The Leader of the Opposition also wanted to know what the conditions of their departure where -

Mr C.J. BARNETT: Which ones have been subject to confidentiality conditions on their ability to speak publicly.

Dr G.I. GALLOP: We will get that question answered.

*[Supplementary Information No A41.]*

Mrs C.L. EDWARDES: I refer to page 130 and the second dot point under major achievements for 2003-04 which states -

A new contract was entered into, following a public tender process, to engage five executive recruitment firms to assist with executive search and selection processing.

Can the Premier outline the policy for use by the Government of those recruitment firms?

Ms MURRAY: For each CEO selection process, I appoint an executive search firm to do a search for candidates. These five firms are now on a panel contract and we select them off that contract as each CEO position comes to me for action.

Mrs C.L. EDWARDES: Do all five firms look for a CEO when a position becomes vacant or just one?

Ms MURRAY: No, we hire just one firm to do a CEO search.

Mrs C.L. EDWARDES: What is the cost of the contract for looking for a CEO and how is that determined?

[12.20 pm]

Ms MURRAY: When the firms applied to be on the panel, they provided us with their rates, which vary from contractor to contractor. At the end of each CEO selection process a series of costs are included for the executive search.

The CHAIRMAN: Will the member for Kingsley please direct her questions through the Premier.

Mrs C.L. EDWARDES: In the public tender process and the cost for each CEO, there are variations between each of the contracts. Why is there a variation? How is it determined? I do not understand why there would be a need for a variation.

Dr G.I. GALLOP: The commissioner will answer that.

Ms MURRAY: Each firm will have a slightly different costing when it applies for the tender. Of course, value for money was a major component of our choice of contractors. The variation is merely in the quoted price. They will give us a price for conducting a CEO selection exercise, and there are minor variations, as the member would imagine, between firms. However, we used value for money as a major criterion in choosing who would go onto our panel.

Mrs C.L. EDWARDES: Does the individual agency pay the cost of that recruitment, does it come from the Department of the Premier and Cabinet, or is it paid through the Office of the Public Sector Standards Commissioner?

Dr G.I. GALLOP: I will ask Ms Murray to answer that.

Ms MURRAY: The individual agency pays.

Mr M. McGOWAN: The fourth dot point on page 122, which is about pay equity for women, indicates that there is some concern about pay equity for women in Western Australia. What initiatives have been put in place to improve the situation?

Dr G.I. GALLOP: The difference in average pay between men and women is considered a key indicator of equity. At the national level, women continue to be paid less than their male counterparts. However, in most States the gap is closing. In Western Australia the gap has widened in the past 10 years, in contrast to the national trend. That is an interesting and important observation. In August 2003 women in Western Australia received 77 per cent of the average weekly earnings of men, compared with 85.1 per cent nationally. My colleague the Minister for Consumer and Employment Protection announced that the State Government had launched an independent review of gender pay gap discrimination, to be undertaken by Dr Trish Todd and Dr Joan Eveline from the University of Western Australia. The report will be presented to the minister by mid-September 2004. Obviously, the Office of Equal Employment Opportunity will action, as required, recommendations from that review that are appropriate for the public sector. It will obviously not be just a public sector issue; it will also be a private sector issue. It is important that we note that difference between

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Western Australia and the other States. Many differences between Western Australia and the other States allow us to wave the flag and say we are much better, but on this issue we cannot. We need to do something about that.

Mrs C.L. EDWARDES: I refer to the second dot point on page 122, which refers to the establishment of shared corporate service centres. I asked about this in a previous division. The commissioner has identified that this will pose challenges to the sector. That would have to be the understatement of the year. What are the challenges posed to the sector by the shared corporate service centres? If 900 specialised public sector employees are to come together in one area in Canning Vale, it will be an enormous task to ensure that the proper processes are in place. They are being taken away from their particular agency and comfort zone, and undertaking an enormous task at the same time.

Dr G.I. GALLOP: Obviously, major changes are going on within the government sector. There are all sorts of implications, some of which the member asked about in the last estimates hearing. The commissioner obviously has a role to play on these issues, and I will ask her to respond.

Ms MURRAY: We are keeping a very close watching brief on how the changes are implemented, and making sure that we have a say in many of those things. We are concerned to make sure that our role in monitoring compliance or non-compliance and reporting to Parliament can continue to be met in an efficient way. It seems that it may well make our job, not necessarily easier, but different in the way we monitor compliance. It will allow for some centralisation and we may be able to work with the shared service centres differently to the way we now work with individual agencies. When I say there is a challenge, I am not entirely certain what those challenges are. I want to ensure Parliament that we are keeping a close watch and that we will continue to report to Parliament on compliance or non-compliance, assuming that I may be able to do this in a more streamlined way.

Mrs C.L. EDWARDES: In referring to the breach claims recently, the commissioner indicated that, as is always the case, recruitment selection and transfers are the largest areas of complaint. Is this the area that the commissioner is going to be most concerned about to ensure compliance?

Ms MURRAY: We are always concerned that there is compliance with all the standards, but because there is so much activity and so many transactions, especially in recruitment selection, we are looking at how the shared service arrangements might assist with some more standardised procedures that might help with compliance.

Mr J.N. HYDE: Output 2 on page 123 relates to advice and evaluation of equity and diversity in public employment. Can the Premier comment on any impact of the passage of lesbian and gay law reform, in the area of either complaints or sensitivity issues? Has it had an effect within the public sector?

Dr G.I. GALLOP: Ms Taylor does not take complaints - they go to the Equal Opportunity Commission - but she may have a general comment to make on the question.

Ms TAYLOR: At this stage we do not collect any identifiable data on the number of gays and lesbians in the public sector. I am not sure whether we intend to go in that direction in the near future. As the Premier has said, any complaints would go directly to the Equal Opportunity Commission.

Mr C.J. BARNETT: I refer to a major achievements for 2003-04 for output 3 on page 130. The first dot point under that heading reads -

The Commissioner's nominations were accepted for 12 out of 14 positions for which the Minister for Public Sector Management announced appointments.

What were the two positions for which the commissioner's nominations were not accepted, and what process was followed for the appointment of those other two positions?

Dr G.I. GALLOP: The positions not accepted were for the Rottnest Island Authority on 25 September 2003, when the minister declined to make an appointment, and subsequently reclassified the position and asked for it to be readvertised. The second position was in the Department of Environmental Protection, when the minister decided not to make an appointment.

Mr C.J. BARNETT: Were appointments subsequently made to those two positions; and, if so, what process was followed for those appointments?

Dr G.I. GALLOP: Rottnest is still in process, and in the case of the Department of Environmental Protection, we did not make an appointment.

Mr C.J. BARNETT: What is the situation with the Department of Environmental Protection right now? Is the process under way?

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Dr G.I. GALLOP: There is an acting chief executive. There is no process under way.

Mr C.J. BARNETT: There is no advertising?

Dr G.I. GALLOP: The acting chief executive is in place.

Mr C.J. BARNETT: So there is no process for the appointment of a permanent chief executive, or a substantive one for the department.

Dr G.I. GALLOP: Not that I am aware of. The minister has obviously indicated her satisfaction with the current arrangements.

Mrs C.L. EDWARDES: How many CEOs are currently in acting positions?

Dr G.I. GALLOP: That is in the Department of the Premier and Cabinet category.

Mrs C.L. EDWARDES: Would the Premier mind providing that by way of supplementary information?

Dr G.I. GALLOP: I will seek supplementary information on the number of CEOs who are currently in acting positions.

*[Supplementary Information No A42.]*

[12.30 pm]

Mr M. McGOWAN: I refer to output 1. One of the major achievements for 2003-04 on page 127 is -

Developed systems to report on compliance with *Public Interest Disclosure Act 2003*".

What are those systems, and what materials have been produced?

Dr G.I. GALLOP: I have answered that question.

**The appropriation was recommended.**