

Western Australian Auditor General's Report



Opinion on Ministerial Notification – Hospital Facilities Services



Report 22: 2020-21

6 May 2021

**Office of the Auditor General
Western Australia**

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The Office of the Auditor General acknowledges the traditional custodians throughout Western Australia and their continuing connection to the land, waters and community. We pay our respects to all members of the Aboriginal communities and their cultures, and to Elders both past and present.

WESTERN AUSTRALIAN AUDITOR GENERAL'S REPORT

Opinion on Ministerial Notification – Hospital Facilities Services



**THE PRESIDENT
LEGISLATIVE COUNCIL**

**THE SPEAKER
LEGISLATIVE ASSEMBLY**

OPINION ON MINISTERIAL NOTIFICATION – HOSPITAL FACILITIES SERVICES

This report has been prepared for submission to Parliament under the provisions of section 24 of the *Auditor General Act 2006*.

It deals with a decision by the Minister for Health, the Hon Roger Cook MLA, not to provide information to Parliament about the cost of returning 21 services, under a facilities management agreement with Serco at Fiona Stanley Hospital, to the public sector.

A handwritten signature in black ink, appearing to read 'C Spencer'.

CAROLINE SPENCER
AUDITOR GENERAL
6 May 2021

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Ministerial decision not to provide information to Parliament

Introduction

This report deals with a decision by the Minister for Health, the Hon Roger Cook MLA, not to provide information to Parliament about the cost of returning 21 services, under a facilities management agreement with Serco at Fiona Stanley Hospital, to the public sector.

Section 82 of the *Financial Management Act 2006* (the FM Act) requires a Minister who decides that it is reasonable and appropriate not to provide certain information to Parliament, to give written notice of the decision to both Houses of Parliament and the Auditor General within 14 days of the decision.

Section 24 of the *Auditor General Act 2006* (AG Act) requires the Auditor General to provide an opinion to Parliament as to whether the Minister's decision was reasonable and appropriate.

What we did

The Audit Practice Statement on our website (www.audit.wa.gov.au) sets out the process we follow to arrive at our section 82 opinions, including:

- a review of State government entity documents
- a review of any advice provided to the relevant Minister by entities, the State Solicitor's Office or other legal advisers
- interviews with key ministerial and entity staff including discussions about our draft findings and the Auditor General's opinion.

Our procedures are designed to provide sufficient appropriate evidence to support an independent view to Parliament on the reasonableness and appropriateness of the Minister's decision.

We have not performed an audit, however, our procedures follow the key principles in the Australian Auditing and Assurance Standards.

Opinion

The decision by the Minister for Health not to provide Parliament with the cost of returning 15 of 21 services under a facilities management agreement with Serco at Fiona Stanley Hospital to the public sector was reasonable and therefore appropriate.

An opinion under section 24 of the AG Act is not provided in relation to the Minister's decision about the remaining 6 services. This is because the costing did not exist at the time. Therefore, there could be no refusal to provide it.

Background

On 11 March 2020, in Legislative Council Question without Notice 182(2), the Hon Tjorn Sibma MLC, Member for the North Metropolitan Region, asked the Minister for the following information:

I refer to the answer I received yesterday concerning the Serco contract at Fiona Stanley Hospital.

- (1) *Did the government undertake any analysis of the cost of bringing the other 21 services back into the public sector?*
- (2) *If yes to (1), what was the cost of bringing back each service into the public sector?*
- (3) *If no to (1), what was the basis for selecting those services that will no longer be delivered by Serco?*

The Minister declined to give this information, replying:

I thank the honourable member for some notice of the question.

- (1) *Yes. The government undertook an assessment of services provided under the Fiona Stanley Hospital facilities management services contract to determine estimated costs for the state to deliver them. Following this assessment, a range of high-level future service delivery options were considered by the government, factoring in complexity, transition benefits and risks, and patient safety.*
- (2) *The Department of Health is seeking legal advice in relation to this question.*
- (3) *Not applicable.*

On 20 May 2020, the Auditor General received the Minister's notification in accordance with section 82 of the FM Act of his decision not to provide the requested information, as it was subject to public interest immunity.

Key findings

The decision by the Minister not to provide the cost of returning 15 of the 21 services, under a facilities management agreement with Serco at Fiona Stanley Hospital, to the public sector was reasonable and therefore appropriate.

The Minister properly sought advice from the Department of Health (the Department) before responding to the Parliamentary request. In advising the Minister, the Department sought legal advice. The Department did not provide us a copy of this legal advice, however, we were able to sight sufficient other information to form an opinion.

The Minister's section 82 notice stated that it was reasonable and appropriate not to provide the information to Parliament because it would reveal the deliberations and decisions of Cabinet.

In considering the Minister's decision, we followed the approach set out in previous opinions on ministerial notifications dealing with Cabinet confidentiality. We assessed the requested information against the following Cabinet confidentiality considerations:

Is part or all of the information publicly available?

We could not find the requested information in publicly available sources at the time the Minister answered the question.

Was the information created for the purpose of informing Cabinet or being discussed in Cabinet? Does it include policy options or recommendations prepared for submission to Cabinet?

We viewed the documents submitted to and considered by the Expenditure Review Committee (ERC) and Cabinet. The analysis assessed various service delivery options, including the full cost of bringing back all services to the public sector. It was prepared solely

for informing Cabinet and ERC about future service delivery options for Fiona Stanley Hospital.

Cabinet requested that the Strategic Services Contracts Steering Committee (SSCSC) provide advice to the ERC on future service delivery options for Fiona Stanley Hospital. The SSCSC then engaged the Western Australian Treasury Corporation (WATC) to assess the current contract performance and analyse a range of alternative options.

To assess the various options, WATC performed a detailed cost analysis for 15 of the 21 services referred to in the question. However, they did not have sufficient comparable service information to perform a detailed costing of the remaining 6 services. Consequently, WATC estimated the full cost of bringing back all services by extrapolating comparable costs from the other services, where possible.

Does the information contain material that would reveal the deliberations and decisions of Cabinet?

The costs of each of the services was used by ERC and Cabinet to assess a range of service delivery options. Releasing this information could reveal the deliberations and decisions of Cabinet.

Did the Minister consider providing any sections of the information that would not reveal deliberations and decisions of Cabinet?

The Minister's notice to Parliament and the Auditor General stated that the Minister considered it was not possible to provide a redacted copy of the requested information with the material subject to Cabinet confidentiality removed.

We agree that the information could not meaningfully be provided with Cabinet-in-confidence information redacted.

Response from Department of Health

We note that the decision by the Minister for Health to not disclose information to Parliament in this case was considered reasonable and therefore appropriate and confirm that the Department supports these findings.

Auditor General's 2021-22 reports

Number	Title	Date tabled
21	Regulation and Support of the Local Government Sector	30 April 2021
20	Opinions on Ministerial Notifications – Policing Information	28 April 2021
19	Opinion on Ministerial Notification – Bennett Brook Disability Justice Centre	8 April 2021
18	Regulation of Consumer Food Safety by the Department of Health	1 April 2021
17	Department of Communities' Administration of Family and Domestic Violence Support Services	11 March 2021
16	Application Controls Audits 2021	8 March 2021
15	Opinions on Ministerial Notifications – Tax and Funding Information Relating to Racing and Wagering Western Australia	26 February 2021
14	Opinion on Ministerial Notification – Hotel Perth Campaign Reports	24 February 2021
13	Opinion on Ministerial Notification – Release of Schedule of Stumpage Rates	24 February 2021
12	Grants Administration	28 January 2021
11	COVID-19 Relief Fund	21 December 2020
10	COVID-19: Status of WA Public Testing Systems	9 December 2020
9	Western Australian Registry System – Application Controls Audit	26 November 2020
8	Regulating Minor Pollutants	26 November 2020
7	Audit Results Report – Annual 2019-20 Financial Audits of State Government Entities	11 November 2020
6	Transparency Report: Major Projects	29 October 2020
5	Transparency Report: Current Status of WA Health's COVID-19 Response Preparedness	24 September 2020
4	Managing the Impact of Plant and Animal Pests: Follow-up	31 August 2020
3	Waste Management – Service Delivery	20 August 2020
2	Opinion on Ministerial Notification – Agriculture Digital Connectivity Report	30 July 2020
1	Working with Children Checks – Managing Compliance	15 July 2020

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