

PUBLIC ACCOUNTS COMMITTEE

Twelfth Report — “Improving Local Government Accountability” — Tabling

MR S.K. L'ESTRANGE (Churchlands) [11.40 am]: I present for tabling the twelfth report of the Public Accounts Committee titled “Improving Local Government Accountability”, plus documented evidence.

[See papers 3680 and 3681.]

Mr S.K. L'ESTRANGE: For the 2014–15 financial year, it has been estimated that Western Australia’s 140 local governments will receive a combined total of \$1.9 billion from rate revenues, with a further \$282 million coming to the sector via the Local Government Grants Commission. Although it is important that elected councillors and local government employees are held sufficiently accountable for the manner in which these moneys are spent, the reality is that WA’s local governments have tended to avoid the degree of scrutiny applied to agencies in other tiers of government. In February 2015, the Corruption and Crime Commission tabled its “Report on Misconduct Risk in Local Government Procurement”, which echoed the sentiments of a 2006 Public Accounts Committee report that had called for the Auditor General to be given audit responsibility for local government. The CCC repeated this call with a view to raising local government accountability standards to be more in line with those of the public sector. The following month, the Minister for Local Government confirmed that he had asked his department to explore options for an expansion of the Auditor General’s role to include the local government sector.

Having observed these ongoing developments, the Public Accounts Committee of the thirty-ninth Parliament requested the Department of Local Government and Communities to appear at a hearing on 19 August 2015. The purpose of the hearing was to learn more about what actions the department had taken in response to the 2006 PAC report and the extent to which these actions and other statutory responsibilities discharged by the department had improved the oversight and accountability of local governments. Following that hearing, the committee requested copies of the independent audit reports prepared for each local government for the 2013–14 financial year. Having considered the content of those audit reports, and the issues raised therein, the committee requested the department to appear at a second hearing on 11 November 2015. As a result of these hearings, the committee has recommended in this report that the Auditor General’s scope of powers be broadened to include financial and performance—effectiveness and efficiency—audits. The committee has further recommended that the Auditor General be given the authority to audit the compliance audit returns submitted by local governments to the department under the requirements of part 7 of the Local Government Act 1995.

These recommendations reflect the committee’s view that the Office of the Auditor General can bring a level of independence and expertise to the monitoring and oversight of local governments. This should mitigate some of the shortcomings the committee has identified in the current local government accountability framework, including a notable inconsistency in the level of detail and general quality of financial audit reports prepared for local governments. This issue was highlighted in 2006, but does not appear to have been the focus of any meaningful corrective action over the past nine years. I will give some examples of that. The quality of financial audit reports prepared for local governments saw 11 separate audit firms engaged across the sector in 2013–14. Although 423 findings or issues for management were raised by the respective auditors in these reports, 154 of these were assigned a rating of minor, moderate or significant. Noncompliance with statutory requirements around financial reporting is another area, and over the past three years, 59 local governments have not provided the department with their audited annual financial report within the required time frame. Moreover, in 2013–14, 45 local governments received comments in their audited management reports around issues of noncompliance in this area.

Another shortcoming is a compliance audit return process that is ultimately undermined by the fact that responses from individual local governments are not subject to verification or independent scrutiny; that is, the compliance audit return on the local government is conducted by the local government itself. A lack of rigour and a seemingly inconsistent approach by the department in its monitoring and follow-up of local governments regarding compliance with statutory requirements is also a concern, as is a lack of transparency across the sector around the findings of financial audits, and a lack of transparency on noncompliance among local governments with regards to key statutory requirements of the Local Government Act 1995 and associated regulations.

We took that matter a little further with the department, and asked its representatives a series of questions. One of the questions was: for each of the last three years, how many complaints against council members have been referred to the Local Government Standards Panel as possible minor breaches of the act? The response we were given was that the department received a total of 92 complaints for the period for referral to the Local Government Standards Panel. We then asked, for each of these years, how many of the complaints had been dismissed by the relevant departmental officer, and we were pleased to hear that none had been dismissed. Our next question was: for each of the last three years, how many complaints have been referred to the

State Administrative Tribunal as possible serious breaches of the act? The response to that was that one complaint each year had been referred to SAT as a possible serious breach. When asked how many allegations had been received for each of these years that had not been referred to SAT, the response was 16 in 2012–13, 36 in 2013–14, and three in 2014–15. It is interesting that, for that three-year period, a total of 2 110 allegations were received and not referred to SAT. The majority of these complaints were not referred because they were deemed not validly made out or able to be substantiated. The concern with this bit of data relates to how well ratepayers are being supported. If, in the years 2012–13 to 2014–15, 2 110 allegations were made against council members and aspects of council business and 58 were deemed by the department to be serious—with only three being referred to SAT—that may be of concern, because that statistic sits in an accountability framework in which the responsibility for investigating a complaint against a local government actually rests with that same local government.

The committee sees scope for the Auditor General to complement the work of the department. In particular, under a reformed accountability framework, staff from the Auditor General's office could deliver informed and objective guidance that would enable the department to target its advice, education, and support tools towards the areas of noncompliance that present the most serious or systemic risks. The committee has directed several recommendations to the department that are aimed at improving local government accountability by addressing the current lack of transparency in the sector. These recommendations call for the department to make public sector-wide reports on the outcomes of the annual compliance audit return process; the final results of all probity audits; financial and asset management ratios presented in a manner that offers the potential for consistent and comparative analysis; and comparative financial data for each local government—for example, rates and additional service fees—in a format similar to that currently provided by the department's counterparts in Queensland and Victoria.

The committee has resolved to table all the evidence it has received from the department during the course of its examination. This includes 132 independent audit reports for the 2013–14 financial year that were provided by the department in response to a request from the committee. The decision to table these documents was taken, in part, to promote greater transparency in the sector. However, the primary reason was to illustrate the basis of the committee's concerns about the inconsistent nature of audit reporting, the variable quality of financial administration across the sector, and the extent to which a significant number of councils are failing to comply with statutory requirements around financial reporting and audit readiness. A strong case exists to improve the current local government accountability framework. The focus of any change needs to be centred on providing the Auditor General with the authority to scrutinise local government performance. In addition, there must be improved transparency including easier access to key information for ratepayers, the wider public, and the Parliament.

I would like to thank fellow committee members for their efforts with regards to investigating this topic—Mr Ben Wyatt, MLA, deputy chairman; Mrs Glenys Godfrey, MLA; Mr Bill Johnston, MLA; and Mr Matt Taylor, MLA. I would also like to thank the committee secretariat for their hard work in supporting the committee, Mr Tim Hughes, principal research officer, and Ms Michele Chiasson, research officer.

MRS G.J. GODFREY (Belmont) [11.50 am]: I wish to speak on the twelfth report of the Public Accounts Committee, "Improving Local Government Accountability". It has been my view for a long time that local government should be independently audited. At my induction on entering Parliament, I asked the Auditor General why it was not being done. The answer was that the local government sector in Western Australia is not subject to the same accountability measures that are placed upon public sector agencies under the Auditor General Act or the Financial Management Act.

In its 2015 report on "Misconduct Risk in Local Government Procurement", the Western Australian Corruption and Crime Commission recommended that the jurisdiction of the Auditor General be extended to include local governments. Under the provisions of part 7 of the Local Government Act 1995, local governments are required to submit a compliance audit return, confirming whether they have complied with various financial and non-financial statutory requirements as prescribed under regulation 13 of the Local Government (Audit) Regulations. However, this compliance audit return is a self-assessment return. The department simply accepts the responses and takes them in good faith. Despite assurances that the current streamlined compliance audit return process would lead to sector-wide reporting, this has not occurred. Although the department retains data on the number and nature of the compliance breaches voluntarily reported through the submitted returns, such data is not published. In fact, no local authority has requested their auditor to include their compliance audit return in the annual audit.

The committee has observed a notable inconsistency in the level of detail and general quality of reporting from the various independent auditors engaged by local governments to conduct the financial statement audits. This was an issue highlighted in the 2006 Public Accounts Committee report from which no meaningful corrective action seems to have eventuated. It is pleasing to note that the Department of Local Government and

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Communities has confirmed a policy decision to extend the jurisdiction of the Auditor General to cover the auditing of local governments. The department is yet to receive the independent audit reports of four local governments relating to the 2013–14 financial year, despite the local government regulations stipulating that the auditor should provide a copy of their report to the minister through the department within 30 days of the audit being completed. I understand that one of these local authorities relates to the following media releases. I quote from *The Weekend West* of 7 November 2015 in which it states —

The former chief executive of a Wheatbelt shire council is facing 139 charges of stealing after an investigation by the Corruption and Crime Commission.

The charges against former ... chief executive ... relate to funds allegedly stolen from the shire.

The West Australian of 10 November 2015, on the same shire, reports —

A former shire chief executive has admitted he had suspicions about a driving assessor who was taking bribes to pass candidates who did not take tests—but denied he turned a blind eye because the council was receiving money from every “test” taken in the town.

In the 2014–15 financial year, the state’s 140 local governments were expected to collectively raise \$1.9 billion in revenue from ratepayers. It is critical that elected councillors and council staff are held sufficiently accountable for the manner in which ratepayer money is spent and local government affairs are conducted. The wages of chief executive officers range from \$125 000 per annum to \$370 000 per annum. In a separate recommendation, the 2006 Public Accounts Committee report also called for the WA Auditor General to publish an annual sector-wide report to facilitate transparency regarding the comparative performance of individual local governments. The department has published an integrated planning and report framework and guidelines to assist all local governments in the preparation of strategic planning. The development of these documents is a collaborative effort requiring input from community, the council and the local government administration.

At this point I wish to put on record the department’s good work in this area of advice, education and support. I refer to the “Integrated Planning and Reporting Framework and Guidelines”, a survey of local government conducted in 2009 as part of the local government reform program. This report was under the guidance of, and developed by, the Minister for Local Government at the time, Hon John Castrilli. The 2009 survey states in part —

82% of local governments undertook limited or no financial planning to identify asset maintenance and renewable gaps.

The Local Government Financial Management Regulations outline the requirement for local government to prepare an annual budget, to also conduct a midyear review of that annual budget and to prepare an annual financial report. Each local government must submit a copy of these three documents to the department within the time frame set out in the financial regulations. The legislation does not appear to require the department to do anything other than receive these reports. The audit regulations stipulate that an independent auditor is required to provide a copy of the audit report to the mayor or the president of the local government, to the chief executive officer and to the minister via the department within 30 days of the audit being completed. The audit report is to include an opinion on the financial position of the local government. Four of Australia’s six states have now legislated to give the Auditors General jurisdiction to conduct the financial audit of local governments and powers to conduct performance audits of local government expenditure.

Another area of concern for the committee is the general lack of transparency around the compliance audit returns. Despite assurances that the streamlined process would lead to sector-wide reporting, this has not occurred. The former Public Accounts Committee studied a sample of audit reports from which it reported that 30 per cent of the 144 local governments in WA encountered significant compliance issues, while just under half did not submit the required information in a timely manner. In relation to the auditing of financial statements, as local governments have retained discretion regarding their choice of audit firm, the consistency and quality of audit reporting is variable. The inconsistency in reporting is underlined by the fact that 58 of the audit reports provided no data or comment on the financial and assessment management ratios in the local government required to be included in the annual financial reports. Based on the department’s risk-profiling methodology, 83 local governments are at no risk. The six at high risk are all non-metropolitan local authorities. Of the 18 that are at medium risk, the City of Vincent is the only metropolitan local authority. I agree with finding 18, which states —

The Auditor General is ideally placed to assume responsibility for overseeing the financial auditing of local governments and establishing a uniform reporting regime and the Committee supports the decision to extend the Auditor General’s jurisdiction in this area.

MR W.J. JOHNSTON (Cannington) [11.59 am]: I firstly thank the Public Accounts Committee’s very hardworking staff, Mr Tim Hughes and Michele Chiasson, who have done a fabulous job under very trying

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circumstances because of the other work the committee had. It is fair to say that we were not expecting to bring the Department of Local Government and Communities back for a second hearing on 11 November. Bringing them back created a large amount of additional work for our secretariat. All committee members thank them very much for that. I thank all members of the committee for their hard work—the member for Churchlands, the chair; the absent deputy chair, the member for Victoria Park; the member for Bateman; and particularly the member for Belmont, who, without going into any matters that are privileged, certainly comes out with great credit from the tabling of this report.

I would personally call this report “Wasted opportunity”. My assessment is that the 2006 report was resisted by the local government industry, particularly by the Western Australian Local Government Association. If we had taken the opportunity presented by the 2006 report, we would not have wasted time debating local government amalgamations; we would have been dealing with actual reform in the local government sector. Because none of this information, which has been sloshing around inside the industry, has been tabulated and made public before, there has been no pressure on poorly performing councils to be held to account. Some local governments are not even complying with the laws of Western Australia. It is extraordinary that with all this bureaucracy and all these councils—they receive \$1.9 billion in funding—some of them cannot even complete their annual audit statements after two years. It is just unbelievable. Unfortunately, the department of local government has assisted that because it has not made public the information that it has available.

Today the committee tabled the audit reports and the audit management letters that it received from the Department of Local Government and Communities. I doubt many people will have the time to read through them all. Sadly, I did; it took me only two nights. The member for Belmont read through them all as well. They are extraordinary. I do not want to unfairly pick one council over another, but, because it sticks in my mind, I will refer to the Shire of Coolgardie. For two years it did not have its end-of-year accounts ready for its auditor. If a football club did not have its accounts ready for the auditor on 30 September, there were probably underlying problems with management. I argue that it is exactly the same with local governments. If local governments cannot do something as simple as getting accounts ready for the auditor three months after the close of the financial year, there is a problem. I happened to quote Coolgardie, because I used it as an example in a hearing, but several other councils are in the same position. Sadly, they are not unique.

The Department of Local Government and Communities’ evidence was basically that it did not see enforcing compliance with the laws of Western Australia as a priority. At page 39 of the committee report is a pyramid that was provided to us by the agency—the member for Belmont referred to this—outlining which local governments were at high, medium and low compliance risk. The department also provided information about some of its processes to work with local governments to try to improve performance, but none of the high-risk councils are receiving that additional support. What the heck is happening in the agency that it is not allocating resources to the worst offenders? That does not make any sense. The decision by the agency to de-emphasise statutory compliance is actually helping to cover up the crisis in local councils. Some local governments are crying out for action, but none of that is being put into the public realm.

On page 7 of the transcript from 11 November, the chair asked —

How many of the local governments had significant matters of noncompliance in their most recent compliance audit returns?

The departmental official replied —

The most recent numbers are for 2014 because it is a calendar year compliance audit return. There were 38 local governments.

Thirty-eight local governments had significant matters of noncompliance, yet it took an accident by our committee to find that fact. The reason I say an “accident” is that the committee did not set out to ask to see the audit reports and the audit management letters; it was only a throwaway question in a hearing that led to those documents coming to us. It was only the examination of those documents that identified the problems. The agency had those issues in front of it the whole time but has never shared it with the public. That is one of the most important reasons that there has been no reform in local government. If the Department of Local Government and Communities had been publishing all this information—tabulating it and putting it into a clear format so that people could see which councils were not complying with simple things such as getting audits done—there would have been pressure for reform because the councils would not have been able to resist the exposure. The agency kept saying, “Oh, well, it’s up to the council to make the report to the community”, but that can include pinning it to a noticeboard in the council rooms or tabling it at an annual meeting of ratepayers—again, something that virtually nobody ever attends. All the information has been available to the agency for all this time yet it is only by chance that we are now making it all available to the public. This is a serious error in the management of accountability mechanisms of the local government sector in Western Australia.

I unkindly asked a question of one of the officials at the August hearing about the compliance audit return. I asked, “What do you do—put them in a bottom drawer?” That official took offence. If I had been asked a question in that way, I would have taken offence too; I understand that. The point is the department has this information available and it is choosing not to publish it. The agency said on a number of occasions that it is not required to publish it. Of course it is not required to publish it under the act but that does not mean it cannot publish it. I actually asked, “If I put in an FOI application, would I get the document?” They agreed that it would be covered by the provisions of the Freedom of Information Act. Sunshine is the best disinfectant: make this information available; particularly, as the committee recommends, tabulate it into a comparable table. But even if the department did not do that, at least publish it on its website. People would then be able to go to one location to find all the information. If no single member of Parliament was prepared to conduct an analysis, perhaps a journalist or some other interested citizen would be. As I said, it took the member for Belmont and me in particular, and other members of the committee, a couple of days to do a quick analysis of these things. It is not that hard. The problem is the information is not publicly available.

Mr A.J. Simpson: You had to dig for it.

Mr W.J. JOHNSTON: Yes, we had to dig for it. It was really a throwaway question at a hearing that led to the information coming to light. There is a genuine crisis in accountability in local government. Local governments are spending billions of dollars. I raised it in my inaugural speech—I am happy that we have some action here; we are looking forward to the auditor general playing a broader role. But I make it clear, the Auditor General will not do detailed accountability work; that should be done by the agency. It can start today, and I urge it to do so.

MR D.A. TEMPLEMAN (Mandurah) [12.08 pm] — by leave: I will be brief. Obviously I have just received a copy of the Public Accounts Committee’s twelfth report as it was only tabled today. In listening to the chairman and other members of the committee, this is a sobering report for local government and certainly a sobering report in regards to the Department of Local Government and Communities. As we heard during the passing of the City of Perth Bill 2015, additional accountability measures were introduced through that bill, which were championed by the Labor opposition and amended by the government, to ensure that we have better transparency measures with regard to declarations by councillors. However, it is concerning to read some of these findings and to listen to the committee members report on some of the experiences during the hearings in preparation for this report. As I have said before, the last thing we need in Western Australia is a crisis in local government, but it seems to me that a range of concerns and issues are apparent in the sector. The Department of Local Government and Communities, a newly constituted department that was created, of course, with the addition of the Communities aspect a couple of years ago, has a key role in this whole issue of accountability and of ensuring that local governments are compliant with the legislation and with the transparency measures that are required of them in reporting. It was concerning to hear the chairman, the member for Belmont and the member for Cannington highlight some of the examples of responses from the department about the noncompliance of a number of councils. This cannot be ignored. It should not be ignored. It should be a wake-up call for the minister in his response. As part of the parliamentary responsibilities of the minister, when a report is handed down by a standing committee, the government must respond. There is no excuse in the modern era, when we have technologies such as websites and the capacity to report almost instantaneously on a whole range of matters, for local governments to not ensure that their compliance measures and the transparent process for that compliance are adhered to.

It is my view that the department should have a comprehensive requirement that all councils in Western Australia have a “My Council” aspect to their website. It is a proposal that I believe is important, whereby, basically, any ratepayer, anywhere in Western Australia, would be able to instantly seek information from a central portal on any council in Western Australia. They should be able to get information about the rates that are charged, the services provided and the philosophy of the council in terms of its priorities. All the other accountability reports and measures that local councils are required to report should also be available instantly. The practice of having to make a freedom of information request to get such basic information should not be the case. We need a template. Something that I will be developing as an opposition proposal is a “My Council” website, where this can all be centralised. Central to that will be the responsibility of the Department of Local Government and Communities to oversee it. It is a well-staffed department. It has a responsibility to ensure that local governments are compliant. That will only improve the status of local government in Western Australia.

It is incumbent on local governments themselves to recognise that they will continue to be put in the frame when we hear reports such as the example we have heard today. It is incumbent on the minister of the day and, indeed, his or her department to ensure that the transparency and accountability of local governments are a primary priority. That is good for good governance. We have already heard of the more than a billion dollars’ worth of income that councils collect just through the rates and expend every year. Let us learn the lessons of this report.

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From my brief reading of it, I believe it is a very good report. I commend the report's authors, the Public Accounts Committee. It is another wake-up call for local government in Western Australia.

MR A.J. SIMPSON (Darling Range — Minister for Local Government) [12.14 pm] — by leave: I will start by thanking the Public Accounts Committee for its report, "Improving Local Government Accountability". There are some important things to put on the record, and I will touch on a couple of issues. I take those on board on behalf of the Department of Local Government and Communities. One thing that is very clear is that the Department of Local Government and Communities has been following the Local Government Act and has been ticking those boxes, and it is now starting to expand that. Yesterday we were debating in the Parliament the Local Government Legislation Amendment Bill 2014, which will amend the act to put in more scrutiny around local government. We are working on bringing in the Auditor General as well. The important part is to acknowledge the amount of work the department has done up to today. In 2006, under the former government, the then Public Accounts Committee brought down a report that said that the Auditor General should be brought into the process. Here we are in 2015, under my stint as minister, implementing that process. We have brought a working group together with representatives from the Western Australian Local Government Association, Local Government Managers Australia and the department to try to work that up to make sure that we get the Auditor General in to do not only the financial audits, but also the performance audits. That is something I am very keen to push along.

I take on board the other couple of comments about the Local Government Standards Panel. This has been an issue for quite a while. In my reply to the second reading debate on the Local Government Legislation Amendment Bill yesterday, I spoke about the fair bit of work that has been done around the code of conduct. I will just touch on the complaint submissions to the standards panel. It is quite clear that when the department receives a complaint and goes back to the person who has complained, saying that more information about the allegation is needed to investigate it, it tends to fall on deaf ears and then lays on the table. Consequently, the standards panel is being clogged up with people putting in one complaint after another. Under the current process, they have to be dealt with as individual cases; the standards panel cannot just say that a person has put in another complaint. We are trying to find a way to streamline that. We are doing that right now. Also, we are reviewing how the code of conduct operates. It is one of those codes of conduct that, when broken, ends up as a complaint to the standards panel. We are tidying that up and fixing it. I am confident that we can get that part under control.

In regard to the performance review, the modern world is moving on. On Monday night I was with the Pilbara Regional Council in Port Hedland. That council puts up a snapshot every month about the council meeting. It provides some quick financials. It is about four pages that show exactly how much debt it has got, how much money is in the bank and how it is tracking in paying its bills. It is a simple report card in colour and graphics that everyone can see. I encourage all local governments to do that. This report is clear and I am happy to send it down to my department. I thank the committee for its work. We will see whether we can put in those recommendations to take it that step further and make not only a simpler reporting mechanism, but also a list so that we can compare every other local government.

The other caution here is that Western Australia is quite an unusual state. When I was going down the road of the reform process and also working with the Auditor General, in a conversation with the Victorian Auditor-General and the Victorian Local Governance Association I asked what was the smallest local government in Victoria. I was told that it has a budget of about \$19 million; I think it was Alpine. That is what the Auditor-General does in Victoria. The problem for me is that I have 138 local governments in Western Australia and about 90 of them have budgets of less than \$20 million, so we are not comparing apples with apples. The City of Stirling has a \$260 million budget and has 220 000 residents. Just to put that in perspective, the population of the Northern Territory is 245 000. There are a range of large and small local governments in Western Australia. That is one of the key areas. If we start putting out those comparisons, some of the parameters will be a little different, but it all comes down to a scorecard. That is probably somewhere the sector has to go. That may be part of bringing in the Auditor General and the performance review.

Under the Carpenter government in 2008, the former minister went through a long process of bringing in an integrated planning and reporting framework, which is touched on in this report. That has been really good for local governments to identify where their assets need to go. It involves 10-year forward financial planning and community plans. In total, there are five plans that they have to go through. They have to tick the boxes to make sure that they consult with their community and that an auditor has been involved and has been shown the books. That has all been done now. We are now into our third year of the integrated planning and reporting process. That is one of the key reasons that rates have gone up considerably. It has been a wake-up call for local governments to realise that they do not have the cash in the bank to replace their assets, so the catch-up is happening. I think in those three years we have come close to where we need to be for the rate increases to start

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flatlining. We are now getting that capacity in there. All the work is done, but again I take on board from the committee that I am happy to report back to Parliament on this report. We probably have to go to the next level and look at a report card that lines up all local governments with each other. As the member for Cannington pointed out, we need some sort of scorecard so that we can see how each local government is travelling within the hemisphere of local governments around Western Australia.