



EDUCATION AND HEALTH STANDING COMMITTEE

AN EXAMINATION OF INDIGENOUS EMPLOYMENT BY THE STATE

**Report No. 10
in the 37th Parliament**

2007

Published by the Legislative Assembly, Parliament of Western Australia, Perth, November 2007.

Printed by the Government Printer, State Law Publisher, Western Australia.



Education and Health Standing Committee

An Examination of Indigenous Employment by the State

ISBN: 978-1-921355-25-7

(Series: Western Australia. Parliament. Legislative Assembly. Committees.
Education and Health Standing Committee. Report 10)

328.365

Copies available from:

State Law Publisher
10 William Street
PERTH WA 6000

Telephone:

(08) 9321 7688

Facsimile:

(08) 9321 7536

Email:

sales@dpc.wa.gov.au

Copies available on-line:

www.parliament.wa.gov.au



***EDUCATION AND HEALTH
STANDING COMMITTEE***

**AN EXAMINATION OF INDIGENOUS
EMPLOYMENT BY THE STATE**

Report No. 10

Presented by:

Hon Dr K.D. Hames, MLA

Laid on the Table of the Legislative Assembly
on 15 November 2007

COMMITTEE MEMBERS

Chairman	Hon T.G. Stephens, MLA Member for Central Kimberley-Pilbara
Deputy Chairman	Hon Dr K.D. Hames, MLA Member for Dawesville
Members	Mrs D.J. Guise, MLA Member for Wanneroo (until 06.09.2007)
	Mr P. Papalia, MLA Member for Peel (from 07.09.2007)
	Mr T.K. Waldron, MLA Member for Wagin
	Mr M.P. Whitely, MLA Member for Bassendean

COMMITTEE STAFF

Principal Research Officer	Dr Jeannine Purdy, BA, B Juris (Hons), LLB, PhD (Law and Legal Studies)
Research Officer	Ms Nicole Burgess, BA (from 4 December 2006) Mr Peter Frantom, BA (until 9 February 2007)

COMMITTEE ADDRESS

Education and Health Standing Committee
Legislative Assembly
Parliament House
Harvest Terrace
PERTH WA 6000

Tel: (08) 9222 7494
Fax: (08) 9222 7804
Email: laehsc@parliament.wa.gov.au
Website: www.parliament.wa.gov.au

TABLE OF CONTENTS

COMMITTEE MEMBERS	i
COMMITTEE STAFF.....	i
COMMITTEE ADDRESS	i
COMMITTEE’S FUNCTIONS AND POWERS	v
INQUIRY TERMS OF REFERENCE	vii
CHAIRMAN’S FOREWORD.....	ix
ABBREVIATIONS AND ACRONYMS	xi
GLOSSARY	xiii
EXECUTIVE SUMMARY	xvii
FINDINGS.....	xxi
RECOMMENDATIONS.....	xliii
MINISTERIAL RESPONSE.....	xlvi
CHAPTER 1 INTRODUCTION.....	1
1.1 WHY A REPORT ON INDIGENOUS EMPLOYMENT BY THE STATE?	1
1.2 BACKGROUND.....	2
1.3 INDIGENOUS UNEMPLOYMENT IN WA	6
CHAPTER 2 COMMITTEE SURVEY.....	9
2.1 INDIGENOUS EMPLOYMENT IN THE PUBLIC AND PRIVATE SECTORS	9
2.2 LEGISLATIVE CONTEXT OF THE SURVEY	10
2.3 METHODOLOGY FOR THE SURVEY	12
(a) Initial mail out.....	12
(b) Lack of response	13
2.4 SURVEY RESPONSES	15
(a) Absence of data.....	16
(b) Available data	19
(c) Initiatives to increase or retain Indigenous employment levels.....	24
2.5 CONCLUSION	27
CHAPTER 3 PUBLIC SECTOR EMPLOYMENT OF INDIGENOUS PEOPLE.....	29
3.1 COMMONWEALTH.....	29
3.2 WESTERN AUSTRALIA.....	31
3.3 COMMUNITY DEVELOPMENT EMPLOYMENT PROJECTS	36
CHAPTER 4 EQUAL EMPLOYMENT OPPORTUNITY IN THE WA PUBLIC SECTOR.....	39
4.1 CURRENT MONITORING AND EVALUATION.....	39
4.2 THE DIRECTOR OF EQUAL OPPORTUNITY IN PUBLIC EMPLOYMENT.....	39
4.3 CALCULATING INDIGENOUS REPRESENTATION.....	39
(a) 2006/07 data.....	39
(b) Full Time Equivalent positions	40
4.4 EQUITY AND DIVERSITY PLAN TARGETS	42
(a) Setting ‘community representation’ as an employment target	42
(b) Achieving ‘community representation’ targets	47
4.5 ESTIMATING COMMUNITY REPRESENTATION	50
4.6 EFFECTIVENESS	53
4.7 MERIT MEETS DIVERSITY.....	56
4.8 COMPLIANCE	59
CHAPTER 5 CONCLUSION.....	63
APPENDIX ONE.....	67
HEARINGS HELD	67
APPENDIX TWO.....	69
STATE AGENCIES AND STATUTORY AUTHORITIES - NO RESPONSE RECEIVED	69
APPENDIX THREE.....	71
STATE AGENCIES AND STATUTORY AUTHORITIES - RESPONSES RECEIVED	71

COMMITTEE'S FUNCTIONS AND POWERS

The functions of the Committee are to review and report to the Assembly on:

- (a) the outcomes and administration of the departments within the Committee's portfolio responsibilities;
- (b) annual reports of government departments laid on the Table of the House;
- (c) the adequacy of legislation and regulations within its jurisdiction; and
- (d) any matters referred to it by the Assembly including a bill, motion, petition, vote or expenditure, other financial matter, report or paper.

At the commencement of each Parliament and as often thereafter as the Speaker considers necessary, the Speaker will determine and table a schedule showing the portfolio responsibilities for each committee. Annual reports of government departments and authorities tabled in the Assembly will stand referred to the relevant committee for any inquiry the committee may make.

Whenever a committee receives or determines for itself fresh or amended terms of reference, the committee will forward them to each standing and select committee of the Assembly and Joint Committee of the Assembly and Council. The Speaker will announce them to the Assembly at the next opportunity and arrange for them to be placed on the notice boards of the Assembly.

INQUIRY TERMS OF REFERENCE

That the Committee examine, report and make recommendations on successful initiatives in remote Aboriginal communities. The Committee will pay particular attention to:

1. The costs and benefits of successful initiatives;
2. The model utilised for the development and delivery of successful initiatives; and
3. Where possible, comparing and contrasting the models utilised for the development and delivery of successful initiatives.

The Committee will report its findings and recommendations to the Legislative Assembly by 20 November 2008.

CHAIRMAN'S FOREWORD

In presenting to the Legislative Assembly this, the tenth report of the Education and Health Standing Committee in the thirty-seventh Parliament, I particularly want to thank the Committee staff for their dedication and support, and again pay special tribute to the quality work of our Principal Research Officer Dr Jeannine Purdy and Research Officer, Ms Nicole Burgess.

This Report is the third in the series of reports the Committee intends to publish on its *Inquiry into Successful Initiatives in Remote Aboriginal Communities*. The earlier two reports have provoked widespread interest, particularly within the many remote Aboriginal communities across regional and remote Western Australia.

The Australian community now holds a strong ambition for their governments to work successfully towards enhancing the life and opportunities of indigenous people across this country. Employment is a key for that outcome.

Employment pathways for indigenous people, including those in remote communities, are vital. Historically, training and employment provided within the public sector have been key steps to securing long-term economic opportunity for large sections of our entire population.

The Western Australian State Government has embedded within its policy settings clear targets for indigenous employment within its state agencies. However, the performance of these agencies in response to these targets has been highly variable.

Against that backdrop we welcome the State Government's November 30th forum on indigenous employment in the private sector. This forum should be a great opportunity for both the public and private sectors of the Western Australian economy to learn lessons from each other on what strategies work and what programs can make it possible to significantly lift the employment statistics for indigenous people across the state.

I commend this report to the House.

HON. T.G. STEPHENS, MLA
CHAIRMAN

ABBREVIATIONS AND ACRONYMS

ABS	Australian Bureau of Statistics
APS	Australian Public Service
CALD	Culturally and Linguistically Diverse
CDEP	Community Development Employment Projects
CEO	Chief Executive Officer
DP&C	Department of the Premier and Cabinet
EO	Equal Opportunity
FTE	Full Time Equivalent
MOIR	Minimum Obligatory Information Reporting
OEEO	Office of Equal Employment Opportunity
SRAs	Shared Responsibility Agreements
RPAs	Regional Partnerships Agreements
RSA	Recruitment, Selection and Appointment [Public Sector Standard]

GLOSSARY

Community Development Employment Projects (CDEP)

A Commonwealth initiative, known colloquially as a ‘*work for the dole*’ program, for Indigenous people. Previously, the program was described by the Commonwealth as follows:

Community Development Employment Projects are the Commonwealth’s largest Indigenous program. They began in 1977 at the request of several remote Communities as an alternative to receiving unemployment benefits (‘the dole’). Participation in the CDEP scheme is voluntary.

CDEP accounts for around one quarter of Indigenous employment and has grown to encompass over 32,000 participants across Australia in Urban, Rural and Remote areas.¹

From 1 July 2007, however, the Commonwealth ceased funding for CDEP in urban and regional centres, closed Indigenous Employment Centres across Australia, and has instead funded enhanced mainstream employment brokerage services.² Originally it was proposed that remote Indigenous communities would continue to receive CDEP funding, but with the ‘*Northern Territory Emergency Response*’ by the Commonwealth, it was announced that CDEP in the Northern Territory ‘*will be progressively replaced by real jobs, training and mainstream employment programs*’.³

Director of Equal Opportunity in Public Employment

A statutory officer appointed by the Governor, the Director performs the functions as outlined in Part IX of the *Equal Opportunity Act 1984* (WA), to eliminate discrimination and promote equal employment opportunity in public authorities.

Equal employment opportunity management plan

Each WA public sector authority is required to develop one of these plans under the terms of the *Equal Opportunity Act 1984* (WA). The plans must include policies and programmes by which equal employment opportunity is to be achieved; the collection and recording of appropriate information; the review of personnel practices within the authority with a view to the identification of any discriminatory practices; and the setting of goals or targets, where these may reasonably be determined, against which the success of the management plan may be assessed.⁴

Equity and Diversity Plans

These plans, applying to the total WA public sector workforce, establish quantifiable objectives in terms of both workforce

¹ CDEP, available at: <http://www.cdep.com.au/> Accessed on 24 November 2006.

² Commonwealth Department of Employment and Workplace Relations, *Indigenous Potential meets Economic Opportunity: Discussion Paper*, November 2006, p 2.

³ Commonwealth Minister for Indigenous Affairs, Media Releases, ‘Jobs and training for Indigenous people in the NT’, 23 July 2007.

⁴ *Equal Opportunity Act 1984* (WA), section 145.

	participation (numbers) and distributional equity (equitable representation at different salary levels) for diversity groups. ⁵
Full Time Equivalent (FTE)	This is a measure of the staffing positions within an agency; an FTE of 1.0 means the equivalent of one full-time worker.
'Head count'	The number of individuals employed by an agency, irrespective of their hours of employment.
Minimum Obligatory Information Requirements (MOIR)	All employing bodies within the WA public sector are required to report Human Resource Minimum Obligatory Information Requirements data to a centralised information system managed by the Department of the Premier and Cabinet. ⁶
Office of Equal Employment Opportunity	The State government agency established to support the Director of Equal Opportunity in Public Employment.
Presiding Officers	The WA Parliament's Presiding Officers are the President of the Legislative Council and the Speaker of the Legislative Assembly.
Public authorities	The term used in Part IX of the <i>Equal Opportunity Act 1984</i> (WA), it defines the jurisdiction of the Director of Equal Opportunity in Public Employment. The term includes the State public service and any 'State trading concern, State Instrumentality, State agency, or any public statutory body, corporate or unincorporated established by or under a law of the State', and also extends to public universities and local government authorities. Almost all of the State agencies examined in this Report are subject to the provisions of Part IX of the <i>Equal Opportunity Act 1984</i> (WA) and the Director's jurisdiction.
Shared Responsibility Agreements (SRAs)	Part of the Commonwealth's 'new ways of working' with Indigenous people since the disbanding of the Aboriginal and Torres Strait Islander Commission (ATSIC) on 30 June 2004. ⁷ The Commonwealth definition states that these are voluntary agreements between governments and Indigenous communities which place obligations on each party, so that in return for discretionary benefits from government, communities make some specific commitments in order to achieve their identified goals. ⁸
State agencies	As used in this Report, the term refers to WA State government agencies and statutory authorities as listed by the Department of the

⁵ Statement to the Educational and Health Standing Committee from the Director of Equal Opportunity in Public Employment, Office of Equal Employment Opportunity, 21 March 2007, p 12.

⁶ Premier's Circular, *Human Resource Minimum Obligatory Information Requirement*, 2005/14, 13 December 2005.

⁷ Commonwealth Office of Indigenous Policy Coordination, *Indigenous Affairs Arrangements*, 2006, pp 2, 32, 33.

⁸ Australian Government, SRAs and RPAs website, available at: <http://www.indigenous.gov.au/sra.html> Accessed on 27 November 2006. See also Commonwealth Office of Indigenous Policy Coordination, *Indigenous Affairs Arrangements*, 2006, pp 32, 33.

Premier and Cabinet and used by the Committee for the purposes of its survey on Indigenous employment by the State.⁹ The term includes the Parliament of Western Australia (as the employer of parliamentary staff and electorate officers) and the Governor's Establishment, although these are not subject to the laws relating to *'Equal Opportunity in Public Employment'* under Part IX of the *Equal Opportunity Act 1984* (WA) and the jurisdiction of the Director of Equal Opportunity in Public Employment.

⁹ Department of the Premier and Cabinet Public Sector Management website mailing list, available at: <http://www.dpc.wa.gov.au/psmd/services/mail/maillist.html> Accessed on 4 October 2006.

EXECUTIVE SUMMARY

Chapter 1 - Why a report on Indigenous employment by the State?

Chapter 1 explains the reasons why the Education and Health Standing Committee decided to examine the issue of Indigenous employment by the State as part of its *Inquiry into Successful Initiatives in Remote Aboriginal Communities*.

It is evident to the Committee that health and education outcomes are inextricably linked to wellbeing, and this in turn relies upon factors such as access to employment. As the State is the leading employer in Western Australia, with more than 100,000 employees, it has a unique opportunity to provide Indigenous people with opportunities for economic participation. It can also ensure accessible and appropriate services through developing a State agency employee profile that is reflective of the broader community, including a growing Indigenous population.

Recent evidence in the coronial inquiry into a large number of Indigenous deaths in the Fitzroy Crossing region has highlighted the impact of a lack of government services and effective engagement in remote communities. These circumstances could also provide the State with an opportunity to stimulate employment for its Indigenous citizens in a meaningful and sustainable way.

Chapter 2 - Committee survey

Chapter 2 examines the Committee's survey of Indigenous employment by State agencies.

The broader context for the Committee's survey was that the public sector, comprising of Commonwealth, State and Local governments,¹⁰ not only employs Indigenous people at a greater rate than the private sector, but in Western Australia, equal employment opportunity by State public authorities¹¹ for Indigenous and other 'diversity groups' is already mandated in the provisions of Part IX of the *Equal Opportunity Act 1984* (WA).

The Committee surveyed 128 State agencies seeking information on Indigenous employment rates and on initiatives to increase or retain Indigenous staff. Initially, one-third of the State agencies contacted failed to respond to the Committee's survey. Eventually, however, a total of 119 State agencies (over 90 per cent) responded.

¹⁰ Using Australian Bureau of Statistics (ABS) data as reported by the Steering Committee for the Review of Government Service Provision in *Overcoming Indigenous Disadvantage Key Indicators 2007 Report*, 2007, Table 11A.1.6.

¹¹ 'Public authorities' is the term used in Part IX of the *Equal Opportunity Act 1984* (WA) and defines the jurisdiction of the Director of Equal Opportunity in Public Employment. Two of the agencies surveyed, the Governor's Establishment and the Western Australian Parliament (as the employer of parliamentary and electorate staff), are not subject to these provisions.

Two of the responding agencies, Synergy and the Western Australian Parliament, were unable to provide the requested data on Indigenous employment. Of the remaining respondents, a number cautioned about the reliability of the data provided, highlighting that it is optional for Indigenous employees to elect to identify as Indigenous in their employment records.

Although the Committee accepts that its data may not be precise, it is concerned by the survey results which indicate that:

- the State agency Indigenous employment rate was only 2.17 per cent of all Full Time Equivalent (FTE) positions compared to the State's Indigenous employment target of 3.2 per cent (nominally representing '*parity with [Indigenous] community demographics*'), and to an Indigenous workforce participation rate of 2.5 per cent;
- the majority of agencies, some of considerable size, have no or hardly any Indigenous employees; and
- the majority of agencies have no initiatives in place to increase or retain Indigenous employment levels.

Chapter 3 - Public sector employment of Indigenous people

Chapter 3 examines public sector employment of Indigenous people generally.

As indicated, the public sector employs Indigenous people at a rate which exceeds Indigenous employment by the private sector. However, there has been a continuing decline in Commonwealth's Australian Public Service (APS) employment of Indigenous Australians in recent years and the actual number of Indigenous employees in the APS currently is the same as it was in 1992 (at 2,750 (2.0%) in 2006 and 2,746 (1.9%) in 1992). Over that same time, the number of Indigenous people in the labour force increased from 105,200 (in 1994) to 186,900 (in 2006), an increase of almost 80 per cent.

In contrast the Indigenous employment rate in the Western Australian State public sector increased from 2.0 to 2.5 per cent, that is by 25 per cent, in the 10 years from 1996. Due to the relatively static size of that workforce until recently, however, the increase over those 10 years translated into an estimated additional 1,000 Indigenous State public sector employees. Over the same decade, from 1996 to 2006, the total Indigenous labour force in Western Australia increased from 14,500 to 28,000 - an increase of almost 95 per cent.

It is also the case that a substantial amount of public sector employment (defined as employment by Commonwealth, State and Local governments) in remote communities throughout Australia (more than 60 per cent) was through Community Development Employment Projects (CDEP).¹² Recent Commonwealth changes to that program have the potential to impact significantly on the public sector employment of Indigenous Australians, particularly in remote communities.

¹² A form of '*work for the dole*' for Indigenous people. Prior to recent changes, the program was described by the Commonwealth as its largest Indigenous program, and as accounting for approximately one quarter of Indigenous employment in Australia.

Chapter 4 - Equal employment opportunity in the WA public sector

Chapter 4 examines the existing monitoring and evaluation of equal employment opportunity in the Western Australian public sector and in particular the role of the Director of Equal Opportunity in Public Employment, established under the *Equal Opportunity Act 1984* (WA).

Amongst other things, the Director's Office assesses public authorities' compliance with the requirements of Part IX of that Act concerning the elimination of discrimination and the promotion of equal employment opportunity, and it analyses data on the representation and distribution of women and diversity groups, including Indigenous people, in the public sector.

In this Chapter, the Committee notes a number of concerns about how equal employment opportunity data is collated and the setting of Indigenous employment targets for the Western Australian public sector. It is true that if Indigenous employment targets were set according to workforce participation rates, the State's public sector would have achieved its Indigenous employment target in 2005/06. However, the public sector employment targets are described by the Office of Equal Employment Opportunity as being based on the representation of Indigenous people in the community. The Committee endorses that approach given concerns about the potential under-participation in the workforce, under-utilisation of services and historic disadvantage of Indigenous people. The Committee recommends that if the level of Indigenous community representation is to be used for the purposes of developing employment targets, these should be based on more accurate data. If alternative figures are adopted for employment targets, the basis for these targets should be clearly articulated and justified.

The Committee is also concerned that its survey results and the evidence of the Director of Equal Opportunity indicate that State agencies have largely failed to appreciate '*how employment diversity can be used productively to improve business and social outcomes*'.¹³ The Committee notes the advice of the Director that the existing Equal Opportunity legislation in this State does not appear to require public authorities to develop specific Indigenous employment strategies or to meet employment targets. Moreover, despite apparently commendable reforms by the Director to ensure improved Indigenous public sector employment outcomes, the Committee is disturbed that the rate of Indigenous employment by the State remained static in 2006/07.¹⁴

Chapter 5 - Conclusion

Chapter 5 concludes the Committee's examination of Indigenous employment by the State.

Indigenous employment provides the State with a critical opportunity to engage with its Indigenous citizens in a meaningful and sustainable way. Although cross-sector Indigenous employment by the State has matched the Indigenous workforce participation rate (2.5 per cent), the performance of individual State agencies is highly variable. There is also an on-going failure to meet Indigenous employment targets by many Western Australian public sector authorities, despite the recent reforms implemented by the Director of Equal Opportunity in Public

¹³ Statement to the Educational and Health Standing Committee from the Director of Equal Opportunity in Public Employment, Office of Equal Employment Opportunity, 21 March 2007, p 3.

¹⁴ Excluding the 2006/07 Department of Health diversity survey results which were problematic.

Employment. This is the context in which the Committee considered what may be effective to entrench improved Indigenous employment outcomes into State agencies' employment practices and values.

Although an option, the Committee does not propose that the development of Indigenous-specific strategies and the meeting of Indigenous-specific employment targets be made mandatory. Instead the Committee recommends that those public and private employers which have successfully engaged and retained Indigenous staff, and most particularly the Indigenous managers and staff members involved, be consulted in order to identify what practices have embedded recognition of the value of Indigenous employment into those agencies. The State's Equal Opportunity legislation and Equity and Diversity Plans should then be reviewed and amended in light of the outcomes of that consultation.

FINDINGS

CHAPTER 1 INTRODUCTION

1.1 Why a report on Indigenous employment by the State?

Page 1

Finding 1

The Committee endorses the view that:

As the State's largest employer, the public sector is in a unique position to contribute to improved social and economic outcomes for Aboriginal people through increased employment levels and subsequent enhanced service delivery.

1.2 Background

Page 3

Finding 2

The abolition of the Aboriginal and Torres Strait Islander Commission (ATSIC) and the dialogue of *'mutual obligations'* associated with Commonwealth initiatives have resulted in an examination of how government is meeting its obligations to Indigenous Australians.

Page 5

Finding 3

The current situation in remote communities provides the State with an opportunity to stimulate employment for its Indigenous citizens in a meaningful and sustainable way.

Page 6

Finding 4

Private sector agencies have demonstrated what can be achieved when commitment and the recognition of mutual benefit is brought to the issue of Indigenous employment, with Rio Tinto, for example, increasing the Indigenous representation in its workforce from less than half a per cent to seven per cent in 10 years.

1.3 Indigenous unemployment in WA

Page 7

Finding 5

Although the Indigenous unemployment rate in Western Australia has declined significantly since 2001, it is currently four times the rate for non-Indigenous Western Australians.

Page 7

Finding 6

The Committee welcomes the announcement by the Premier of Western Australia of a major forum to tackle Indigenous unemployment in Western Australia, to be held on 30 November 2007, as an acknowledgment by government of its shared responsibility to address Indigenous unemployment in this State.

Page 8

Finding 7

The willing participation and partnership of the private sector and of Indigenous people is essential to addressing Indigenous unemployment; however it is the State which has a:

primary policy and leadership role to enable Indigenous Western Australians to participate in the State and nation's economy.

CHAPTER 2 COMMITTEE SURVEY

2.1 Indigenous employment in the public and private sectors

Page 10

Finding 8

Public sector employment, (defined as employment by the Commonwealth, State and Local Governments) continues to provide significant opportunities for Indigenous Australians to participate in the wider economy. In Western Australia the public/private employment ratio for non-Indigenous employees was one to five compared to a public/private employment ratio for Indigenous employees of two to three.

This data indicates that in Western Australia:

- Indigenous employees are more than two times more likely to be employed by

government than non-Indigenous employees; and

- while public sector employment accounts for one-third of Indigenous employment it accounts for less than one-sixth of non-Indigenous employment.

2.2 Legislative context of the survey

Page 11

Finding 9

The objects of Part IX of the *Equal Opportunity Act 1984* (WA) are to:

- eliminate and ensure the absence of discrimination in employment in public authorities on all the grounds covered by that Act (which includes 'race'); and
- promote equal employment opportunity for all persons in public authorities.

Part IX requires, amongst other things, that all public authorities report annually to the Director of Equal Opportunity in Public Employment with data on the profile of their workforce and the current equal employment opportunity management plan.

Those government departments and statutory authorities which employ more than 50 employees are also required to develop performance objectives for groups, including 'Indigenous Australians', who are covered by the State government's *Equity and Diversity Plan for Public Sector Workforce*.

Almost all of the State agencies surveyed by the Committee on Indigenous employment rates and initiatives to increase or retain Indigenous staff were subject to the laws under Part IX of the *Equal Opportunity Act 1984* (WA).

2.3 Methodology for the survey

Page 13

Finding 10

On 4 October 2006, a survey was mailed out to 128 State agencies by the Education and Health Standing Committee seeking information on Indigenous employment rates and initiatives to increase or retain Indigenous staff. Agencies were requested to respond within four weeks.

Page 14

Finding 11

Two months after the survey on Indigenous employment was mailed out, one third of the 128 State agencies contacted had not responded.

The Committee had sought only a brief response from these agencies, almost all of which should have had the information requested readily to hand under legislative requirements.

Page 14

Finding 12

Despite two written requests, nine agencies have failed to respond to the Committee's survey. Those agencies are:

- Central West TAFE
- Department of Land Information
- Electorate Offices
- Independent Market Operator
- Main Roads Western Australia
- Metropolitan Cemeteries Board
- Subiaco Redevelopment Authority
- Swan TAFE
- Western Australian Institute of Sport

In relation to '*Electorate Offices*', staff are employed by the Parliament's Presiding Officers and their delegate is the Director General of the Department of the Premier and Cabinet. The Director General provided no response to the Committee's survey for electorate staff, although he did provide data for staff employed by the Department of the Premier and Cabinet.

2.4 Survey responses

Page 15

Finding 13

A total of 119 of the 128 State agencies surveyed responded. With a response rate of over 90 per cent, the survey data provides a reliable insight into the level of, and approach to, Indigenous employment by State agencies.

Page 16

Finding 14

Two of the State agencies surveyed were unable to report how many Indigenous people they employed.

Page 16

Finding 15

Synergy, which described itself as *'a new business'*, stated that *'The number of FTE [Full Time Equivalent positions] occupied by Indigenous agency employees is not known at this point'* but expected to rectify this with the implementation of an Equity and Diversity Plan.

For the purposes of its survey the Committee recorded that there were no Indigenous employees at Synergy.

Page 17

Finding 16

The Western Australian Parliament was also unable to provide data on the Indigenous people it employed.

In a joint response to the Committee's survey from the Parliamentary Services Department, Legislative Council and Legislative Assembly, on behalf of the Western Australian Parliament, the Committee was advised that:

As we do not record information regarding employee's birth place we are unable to report how many Indigenous employees are filling FTE [Full Time Equivalent] positions.

The Committee believes that the number of FTE positions filled by Indigenous employees at the Western Australian Parliament is nil.

Page 17

Finding 17

The Parliament is not subject to the jurisdiction of the Director of Equal Opportunity in Public Employment, and more generally is not subject to the laws applicable to others unless bound within the terms of legislation.

Page 18

Finding 18

The Parliament of Western Australia has stated its commitment to equal employment opportunity principles over some years and developed its first Equal Employment Opportunity policy on 12 September 2007.

Page 19

Finding 19

The Committee notes with concern that almost half of the 119 State agencies responding to the Committee survey employed no Indigenous employees.

Included amongst those agencies were 20 agencies which had more than 30 Full Time Equivalent (FTE) positions. Those agencies were:

- Animal Resource Centre
- Aqwest
- Builders' and Painter's Registration Board of Western Australia
- Corruption and Crime Commission
- Country High Schools Hostel Authority
- Curriculum Council of Western Australia
- Forest Products Commission
- Government Employees Superannuation Board
- Legal Practice Board
- Office of Energy
- Office of the Auditor General

- Office of the Public Sector Standards Commissioner
- Parliament of Western Australia
- Racing and Wagering Western Australia
- Small Business Development Corporation
- Swan River Trust
- Synergy
- Western Australian Greyhound Racing Association
- Western Australian Treasury Corporation
- Worker's Compensation and Rehabilitation Commission

It is of note that the Office of the Public Sector Standards Commissioner incorporates the Office of Equal Employment Opportunity.

Page 20

Finding 20

An additional 17 State agencies (14 per cent), which each had over 100 Full Time Equivalent (FTE) positions, had an Indigenous employment rate of less than one per cent. These agencies were:

- Botanic Gardens and Parks Authority
- Central TAFE
- Department for Planning and Infrastructure
- Department of Consumer and Employment Protection
- Department of the Premier and Cabinet
- Department of Treasury and Finance
- Fire and Emergency Services Authority
- Fremantle Port Authority
- Lotteries Commission
- Public Transport Authority
- Rottnest Island Authority

- Verve Energy
- Western Australian Land Authority
- Western Australian Sports Centre Trust
- Western Australian Tourism Commission
- Western Power
- Zoological Parks Authority

It is of note that the Department of the Premier and Cabinet is responsible for Public Sector Management and that four of the other agencies included amongst these respondents had over 1,000 FTE positions - the Department for Planning and Infrastructure, Fire and Emergency Services Authority, Public Transport Authority and Western Power.

Page 21

Finding 21

Only 22 of the 119 State agencies which responded to the Committee's survey (18 per cent) had a rate of Indigenous employment which was not below 3.2 per cent, the figure nominally representing '*parity with community demographics*' used as the basis for the State's Indigenous public employment targets. Those agencies were:

- Albany Port Authority
- Broome Port Authority
- C. Y. O'Connor College of TAFE
- Department for Community Development
- Department of Corrective Services
- Department of Education Services
- Department of Environment and Conservation
- Department of Housing and Works
- Department of Indigenous Affairs
- Department of Local Government and Regional Development
- Department of Sport and Recreation

- Department of the Attorney General
- Drug and Alcohol Office
- Equal Opportunity Commission
- Gascoyne Development Commission
- Great Southern TAFE
- Kimberley Development Commission
- Kimberley TAFE
- Mid West Development Commission
- Office of the Inspector of Custodial Services
- Pilbara TAFE
- South West Development Commission

Page 23

Finding 22

The proportion of Indigenous people participating in the workforce tends to be lower than the proportion in the community as a result of factors such as:

- the larger proportion of Indigenous youth;
- limited educational and employment opportunities in remote communities;
- poor health; and
- in some circumstances, community or generational disengagement from the workforce.

By benchmarking Indigenous employment for the Western Australian public sector against community representation (nominally 3.2 per cent) rather than workforce participation (2.5 per cent), the affect of disadvantage and disengagement on current workforce participation by Indigenous people is acknowledged.

Page 24

Finding 23

Based on survey responses covering more than 90 per cent of the State agencies in Western Australia, the Indigenous employment rate was 2.17 per cent of Full Time Equivalent (FTE) positions.

The Committee notes that this is not a precise figure. However, it indicates that there is a gap between the representation of Indigenous people in State employment and the representation of Indigenous people in both the community (nominally 3.2 per cent) and the workforce (2.5 per cent).

Page 24

Finding 24

In response to the Committee's request for information about the initiatives currently in place to increase the number of and/or to retain Indigenous employees within State agencies, more than half of the responding agencies reported that they had none.

Included amongst those agencies were the following, each of which had 30 or more Full Time Equivalent (FTE) positions:

- Animal Resource Centre
- Aqwest
- Builders' and Painter's Registration Board of Western Australia
- Country High School Hostels Authority
- Curriculum Council of Western Australia
- Department for Planning and Infrastructure
- Department of Education Services
- Department of Sport and Recreation
- Department of Treasury and Finance
- East Perth Redevelopment Authority
- Esperance Port Authority
- Forest Products Commission
- Fremantle Port Authority

- Government Employees Superannuation Board
- Legal Practice Board
- Lotteries Commission
- Office of Energy
- Office of the Public Sector Standards Commissioner
- Parliament of Western Australia
- Racing and Wagering Western Australia
- Small Business Development Corporation
- Synergy
- Western Australian Greyhound Racing Association
- Western Australian Electoral Commission
- Western Australian Land Authority
- Western Australian Sports Centre Trust
- Western Australian Treasury Corporation
- Western Power
- Workers' Compensation and Rehabilitation Commission

A number of agencies that had no such initiatives in place responded that their selection of staff *'is based purely on merit'*.

Page 26

Finding 25

Some of the State agencies responding to the Committee survey, which did have initiatives in place to increase or retain Indigenous employment levels, indicated that initiatives relied upon the availability of Commonwealth, private or other external funding.

Other agencies indicated that their efforts were directed externally, encouraging others to employ Indigenous staff.

Page 27

Finding 26

A number of State agencies responding to the Committee's survey have implemented or are developing innovative and thoughtful initiatives to improve Indigenous employment and retention levels.

2.5 Conclusion

Page 28

Finding 27

The Committee is concerned by the number of delayed or non-existent State agency responses to its survey on Indigenous employment.

The Committee is even more concerned by the survey results which indicate that:

- the State agency Indigenous employment rate was only 2.17 per cent of all Full Time Equivalent (FTE) positions compared to the State's Indigenous employment target of 3.2 per cent (nominally representing *'parity with [Indigenous] community demographics'*), and to an Indigenous workforce participation rate of 2.5 per cent;
- the majority of agencies, some of considerable size, have no or hardly any Indigenous employees;
- the majority of agencies have no initiatives in place to increase or retain Indigenous employment levels; and
- various agencies view workplace diversity initiatives as being inconsistent with merit selection, Indigenous employment as reliant upon external funding, and the role of State agencies as being to secure others' employment of Indigenous people.

Page 28

Finding 28

Based on the material presently available to it, the Education and Health Standing Committee believes that, despite legislative obligations to provide equal employment opportunity, the creation of Indigenous employment pathways is not looked upon as a core responsibility by many public sector and other State authorities in Western Australia.

CHAPTER 3 PUBLIC SECTOR EMPLOYMENT OF INDIGENOUS PEOPLE

3.1 Commonwealth

Page 30

Finding 29

Although the two per cent representation of Indigenous employees in the Commonwealth's Australian Public Service (APS) continues to be higher than the 1.4 per cent representation in the Australian workforce generally, the actual number of Indigenous employees in the APS is currently the same as it was in 1992 (at 2,750 (2.0%) in 2006 and 2,746 (1.9%) in 1992).

Over the same period the number of people identifying as Indigenous in Australia increased by approximately 40 per cent, to a total of more than half a million people (2.5% of the total population). The number of Indigenous people in the workforce increased from 105,200 (in 1994) to 186,900 (in 2006), an increase of almost 80 per cent.

3.2 Western Australia

Page 32

Finding 30

According to data published annually by the Public Sector Management Office (Department of the Premier and Cabinet), representation of Indigenous people in Western Australian public sector employment increased from 2.0 per cent in 1996 to 2.5 per cent in 2006; an increase of 25 per cent.

Page 36

Finding 31

Due to the relatively static size of the Western Australian public sector workforce until recently, that 25 per cent increase in Indigenous representation over the last decade has translated into an estimated additional 1,000 Indigenous public sector employees.

Over the same decade, from 1996 to 2006, the total Indigenous workforce in Western Australia increased from 14,500 to 28,000 - an increase of almost 95 per cent.

Page 36

Finding 32

Despite the improvement in representation of Indigenous employees in the Western Australian public sector, there is a continuing and significant gap between State employment of Indigenous people and their representation in the community.

3.3 Community Development Employment Projects

Page 38

Finding 33

Data available until 2004/05 indicates that a significant proportion of public sector employment of Indigenous Australians (defined to include Commonwealth, State and Local Government employment) was funded through Community Development Employment Projects (CDEP), particularly in remote areas where CDEP accounted for 63.5 per cent of the public sector employment of Indigenous people.

Page 38

Finding 34

Recent Commonwealth changes to Community Development Employment Projects (CDEP) have the potential to impact markedly on the public sector employment of Indigenous Australians, particularly in remote communities.

CHAPTER 4 EQUAL EMPLOYMENT OPPORTUNITY IN THE WA PUBLIC SECTOR

4.3 Calculating Indigenous representation

Page 40

Finding 35

The Committee accepts that the Office of Equal Employment Opportunity's 2.3 per cent figure for Indigenous representation in the 2006/07 Western Australian public sector profile may be anomalous due to a poor response to the Department of Health's diversity survey.

Irrespective of this, instead of increasing to meet Equity and Diversity Plan targets, the overall rate of Indigenous representation in the public sector between 2005/06 and 2006/07 (excluding the Department of Health) remained static.

Page 41

Finding 36

Converting the 2005/06 Office of Equal Employment Opportunity diversity survey results, which originally indicated 2.5 per cent Indigenous representation in the Western Australian public sector, the Director's estimate of Indigenous representation using calculations based on Full Time Equivalent (FTE) positions was 2.04 per cent.

This was approximate to the Committee's survey result of 2.17 per cent Indigenous representation in the Western Australian public sector, based on FTE positions.

Page 41

Finding 37

While the Committee has no issue with reporting on the actual number of Indigenous people working in the public sector, whether full or part-time, the Committee notes the potential for a figure based on '*head count*' rather than Full Time Equivalent (FTE) positions, if used in isolation, to provide an incomplete indication of the level of Indigenous employment in the public sector.

4.4 Equity and Diversity Plan targets

Page 45

Finding 38

If Indigenous employment targets were set according to the workforce participation rate, the Western Australian public sector would have achieved that target in 2005/06.

Page 45

Finding 39

Setting employment targets for Indigenous people according to current workforce participation rates, however, ignores the potential for State employment to be a mechanism to increase workforce participation rates by Indigenous people.

Page 46

Finding 40

While client profile can be relevant to establishing workforce profile, there are difficulties associated with setting employment targets for Indigenous people according to client profile for those agencies which are not or are rarely utilised by Indigenous clients.

To set employment targets for Indigenous people solely according to an agency's client profile ignores the potential that an existing lack of Indigenous employees or appropriate service delivery could contribute to the under-utilisation of services by Indigenous people.

Page 46

Finding 41

The Committee notes that the approach currently articulated in the *Equity and Diversity Plan for the Public Sector Workforce* requiring that public sector employment targets should, as a minimum, be based on 'community representation' (3.2 per cent) effectively requires the State to employ Indigenous people at a rate higher than their workforce participation rate (2.5 per cent).

Page 47

Finding 42

The Committee believes that the approach currently articulated in the *Equity and Diversity Plan for the Public Sector Workforce* requiring that public sector employment targets should, as a minimum, be based on 'community representation' is appropriate. The approach has the potential to address issues associated with under-participation in the workforce, under-utilisation of services and the historic disadvantage of Indigenous people.

Page 48

Finding 43

The level of representation of Indigenous employees in the public sector continues to fall below the 2.9 per cent target originally set for 2005 in the State government's previous *Equity and Diversity Plan for the Public Sector Workforce 2001-2005*.

Page 49

Finding 44

The current State government *Equity and Diversity Plan for the Public Sector Workforce 2006-2009* revised the targets for the public sector workforce participation by Indigenous Western Australians downwards, to 2.6 and 2.9 per cent for 2006 and 2007 respectively, only rising to 3.2 per cent by 2009.

Page 49

Finding 45

The Committee is concerned that the reduction in the targets for the public sector workforce participation by Indigenous Western Australians in the current *Equity and Diversity Plan for the Public Sector Workforce*, following the public sector's failure to meet its previous targets, implies a tolerance for non-achievement in this area.

4.5 Estimating community representation

Page 51

Finding 46

The current State government *Equity and Diversity Plan for the Public Sector Workforce 2006-2009* uses a figure of 3.2 per cent as ‘community representation’ of Indigenous people in this State.

However, Australian Bureau of Statistics (ABS) projections indicate that, since at least 2001, 3.5 per cent of the State’s population was Indigenous.

In addition, funding from the Commonwealth for ‘Indigenous disadvantage’ as paid to the State in 2006 used 3.6 per cent as the estimate of the Indigenous population of Western Australia.

Recently released estimates from the ABS, based on 2006 census results, indicate that the proportion of the State’s population which was Indigenous in 2006 was 3.8 per cent.

Page 52

Finding 47

The level of Indigenous community representation used by the Office of Equal Employment Opportunity for the purposes of developing Equity and Diversity Plans is reduced by the election to utilise:

- actual census results rather than estimates which are the official measure of population in Australia, used for determining the allocation of government funding amongst other things;
- actual census data which is some years out of date rather than official projections;
- an unadjusted figure throughout the four year term of the Equity and Diversity Plans.

4.6 Effectiveness

Page 55

Finding 48

The Committee recognises that the significant reduction in the incidence of harassment and direct discrimination, the incidence of unwelcome comments of a sexist or racist nature, in public sector authorities over the 20 years of Equal Opportunity legislation in Western Australia is an important achievement.

Page 56

Finding 49

The Committee recognises that a number of public authorities are achieving significant successes beyond improved employment outcomes, to build community relationships, to foster improved engagement with Indigenous communities and to assist Indigenous people to achieve increased economic independence through the establishment and operation of business enterprises.

The Committee also notes, however, that each of the authorities achieving these significant outcomes has an Indigenous employment rate below the level of community representation.

4.7 Merit meets diversity

Page 58

Finding 50

The minimum standard of merit, equity and probity for recruitment, selection and appointment in the Western Australian public sector is met if:

A proper assessment matches a candidate's skills, knowledge and abilities with the work-related requirements of the job and the outcomes sought by the public sector body, which may include diversity.

The Office of the Public Sector Standards Commissioner advises:

Public sector agencies can apply the principles of human resource management emphasised in the Recruitment, Selection and Appointment (RSA) Standard to encourage individuals or groups which may be under-represented in the public sector workforce to apply and compete for vacancies.

As a result the assessment and application of considerations of diversity under the Public Sector Recruitment, Selection and Appointment Standard is discretionary.

4.8 Compliance

Page 61

Finding 51

The Committee is concerned that the existing Equal Opportunity legislation in this State does not appear to require public authorities to develop specific Indigenous employment related strategies or to meet employment targets.

Page 62

Finding 52

The Committee commends the Director of Equal Opportunity in Public Employment for the recent implementation of two significant initiatives to ensure that the public sector seriously address Indigenous employment targets:

- the inclusion of Indigenous employment objectives in Chief Executive Officer (CEO) Performance agreements for 2006/07; and
- the listing of each public sector agency's performance in relation to diversity targets (for agencies with more than 100 employees) in the Director's Annual Reports for 2005/06 and 2006/07.

Page 62

Finding 53

Given recent initiatives by the Director of Equal Opportunity in Public Employment to ensure that public authorities seriously address Indigenous employment targets (Finding 52), the Committee is disturbed that the data for 2006/07 records that the Indigenous employment level in the State public sector not only continues to fail to meet the revised and reduced equal opportunity targets but is static.

CHAPTER 5 CONCLUSION

Page 63

Finding 54

After more than 20 years, and with mechanisms to monitor and assist in the attaining of equal opportunity in public employment for Indigenous people, cross-sector employment by the State has matched the Indigenous workforce participation rate (2.5 per cent); although the performance of individual State agencies is highly variable.

Indigenous employment by the State also remains substantially below the level of Indigenous representation in the general community.

RECOMMENDATIONS

CHAPTER 1 INTRODUCTION

1.3 Indigenous unemployment in WA

Page 8

Recommendation 1

The Committee recommends that the State fulfil its *'leadership role to enable Indigenous Western Australians to participate in the State and nation's economy'* by example as well as through policy and reinvigorate its commitment to employment opportunities for Indigenous people through State agencies.

CHAPTER 4 EQUAL EMPLOYMENT OPPORTUNITY IN THE WA PUBLIC SECTOR

4.3 Calculating Indigenous representation

Page 42

Recommendation 2

The Committee recommends that publication of equal employment opportunity data be broadened to include reporting of Indigenous status according to human resource records (as voluntarily nominated by employees) and based on the number of Full Time Equivalent (FTE) positions, similar to the data which formed the basis of the Committee's own survey.

4.5 Estimating community representation

Page 53

Recommendation 3

The Committee recommends that if Indigenous community representation is to be used for the purposes of developing Equity and Diversity Plan employment targets the figure should be based on '*estimated resident population*'. This is the official measure of population in Australia and the states and territories. That figure should also be adjusted annually to allow for projected population changes.

If the Indigenous employment targets for the Western Australian public sector are to be based on a different measure, the basis should be clearly articulated and justified.

CHAPTER 5 CONCLUSION

Page 65

Recommendation 4

The Committee recommends that those public employers which have successfully engaged and retained Indigenous staff, and most particularly the Indigenous managers and staff members involved, be consulted in order to identify what practices have embedded recognition of the value of Indigenous employment into those agencies.

The Committee also recommends that particular attention be paid to successful initiatives that have been undertaken within the private sector, including those that are to be highlighted at the Indigenous employment forum to be held on 30 November 2007 (refer to Finding 6).

In order to ensure that this contributes to the long-term reform of public employment in this State, the Committee also recommends that the State's Equal Opportunity legislation and Equity and Diversity Plans be reviewed and amended in light of the outcomes of that consultation.

It is hoped that this will ensure that State agencies' employment practices and values will come to entrench the critical opportunity that Indigenous employment provides the State to engage with its Indigenous citizens in a meaningful and sustainable way.

MINISTERIAL RESPONSE

In accordance with Standing Order 277(1) of the Standing Orders of the Legislative Assembly, the Education and Health Standing Committee directs that the Premier, as Minister for Public Sector Management, report to the Assembly as to the action, if any, proposed to be taken by the Government with respect to the recommendations of the Committee.

CHAPTER 1 INTRODUCTION

1.1 Why a report on Indigenous employment by the State?

This Report is the third in a series of reports that the Education and Health Standing Committee intends to table in the course of its current *Inquiry into Successful Initiatives in Remote Aboriginal Communities*.¹⁵

The issue of State employment of Indigenous people arose because it is evident to the Committee that health and education outcomes for Indigenous people are inextricably linked to wellbeing, which in turn relies upon factors such as the provision of basic infrastructure and access to employment pathways. The Committee addressed issues related to infrastructure in Report No. 6, *Where from? Where to? A Discussion Paper on Remote Aboriginal Communities*.

In this Report, the Committee examines Indigenous employment by the State. The Committee endorses the view expressed by the then Western Australian Premier, Hon. Dr Geoff Gallop MLA, in his foreword to the 2002 Office of Equal Employment Opportunity document, *Indigenous Employment in the WA Public Sector - Valuing the Difference*. Dr Gallop stated that:

*As the State's largest employer, the public sector is in a unique position to contribute to improved social and economic outcomes for Aboriginal people through increased employment levels and subsequent enhanced service delivery.*¹⁶

Finding 1

The Committee endorses the view that:

As the State's largest employer, the public sector is in a unique position to contribute to improved social and economic outcomes for Aboriginal people through increased employment levels and subsequent enhanced service delivery.

¹⁵ It is also the third report in this inquiry that has been developed by way of background, so that the broader context in which remote Aboriginal communities operate can be appreciated. The Committee intends that future reports in the series will identify specific initiatives that are proving successful in remote Aboriginal communities.

¹⁶ Office of Equal Employment Opportunity, *Indigenous Employment in the WA Public Sector - Valuing the Difference*, November 2002, Foreword. Note, however, the public sector in Western Australia is sometimes described as 'the biggest employer' and at others as 'a major employer' in the State (for example, jobs.wa.gov.au and www.getting a job.dpc.wa.gov.au Accessed on 26 September 2007).

1.2 Background

The Education and Health Standing Committee resolved to undertake an inquiry into *Successful Initiatives in Remote Aboriginal Communities* on 23 August 2006. In some respects a continuation of the Committee's earlier Report No. 2, on its *Inquiry into the Swimming Pool Program in Remote Communities*, the intention was to highlight those initiatives which are bringing positive outcomes to remote Aboriginal communities. It was hoped this not only would provide models for consideration and adaptation by remote communities in Western Australia, but also would highlight successes at a time when there is much focus on the negative and dysfunctional aspects of some communities.

In order to appreciate the measure for successful initiatives in remote Aboriginal communities, the Committee wanted to first gain an understanding of the broader context in which such communities operate. Given that basic amenities are often a prerequisite to attaining good health or education outcomes, the Committee sought background briefings on the current arrangements relating to potable and waste water services, power supplies, housing, and the broader issue of funding, for remote Aboriginal communities. These briefings contributed greatly to the Committee's first report in the series for this Inquiry, Report No. 6, *Where from? Where to? A Discussion Paper on Remote Aboriginal Communities*, tabled on 5 April 2007. That discussion paper outlined the background of government arrangements which contributed to the emergence of remote Aboriginal communities, and the circumstances in remote Aboriginal communities in Western Australia today. Submissions were invited and the Committee intends to publish a final report, incorporating those submissions and related materials, in the future.

The Committee was also interested in Commonwealth initiatives, associated with Mr Noel Pearson's '*Cape York Agenda*'¹⁷ but applied more generally to Indigenous individuals and communities throughout Australia. Committee members met with Mr Pearson and visited a number of the Cape York communities in November 2006. The Committee published its second report in this series, Report No. 7, *Initiatives in the Remote Indigenous Communities of Cape York*, on 19 June 2007.¹⁸

Adapting Mr Pearson's analysis, the Commonwealth's '*new ways of working*' with Indigenous communities have emphasised the significance of participating in the '*real economy*' as the means by which many of the issues confronting Aboriginal Australians, including their poor health and

¹⁷ Pearson, N, '*The Cape York Agenda*', Address to the National Press Club, Canberra, 30 November 2005. See also Pearson, N, *Our Right to Take Responsibility*, Noel Pearson & Associates, Cairns, Queensland, 2002, p 5:

Passive welfare and grog and drugs are finally tearing our society apart ... We have to be as forthright and unequivocal about our responsibilities as we are about our rights - otherwise our society will fall apart while we are still fighting for our rights. We do not have a right to passive welfare - indeed we can no longer accept it. We have a right to a real economy, we have to build a real economy.

¹⁸ Additional reports, on the Cape York Partnership's Family Income Management initiative and on the Committee's travel to the Torres Strait Islands undertaken in association with its travel to Cape York, are expected to be tabled at a future date.

education outcomes, can be addressed.¹⁹ These Commonwealth initiatives have been associated with a dialogue around ‘*mutual obligations*’ which includes a focus on the shared responsibilities of government and Indigenous Australians.²⁰

These developments have occurred in a context described by Mr Neil Westbury²¹ as follows:

*The abolition of ATSIC in 2004 removed the façade which had allowed the Commonwealth and other Governments to effectively avoid direct responsibility for poor economic and social outcomes amongst Indigenous Australians.*²²

The abolition of ATSIC and the dialogue of ‘*mutual obligations*’ associated with Commonwealth initiatives have resulted in an examination of how government is meeting its obligations to Indigenous Australians.

Finding 2

The abolition of the Aboriginal and Torres Strait Islander Commission (ATSIC) and the dialogue of ‘*mutual obligations*’ associated with Commonwealth initiatives have resulted in an examination of how government is meeting its obligations to Indigenous Australians.

¹⁹ See for example, the Commonwealth Secretaries Group on Indigenous Affairs, *Annual Report 2005-2006* (at p 33):

Economic participation and development not only provides economic benefits to Indigenous Australians, it has a wider impact on their social wellbeing. Economic participation improves self-esteem and can also lead to benefits for families through increased access to health and education services.

The strategies supporting economic participation and development for Indigenous people can, however, have a narrow focus. A report by the Commonwealth Office of Indigenous Policy Coordination, *Indigenous Affairs Arrangements* (2006), states that:

employment and economic development programs within the Employment and Workplace Relations Portfolio have been connected through a comprehensive Indigenous economic development strategy, targeting jobs, business and assets’ (at p 26).

It appears from correspondence with the Commonwealth Office of Indigenous Policy Coordination that the Discussion Paper, *Indigenous Potential meets Economic Opportunity*, referred to in footnote 2 and concerning the withdrawal of CDEP, is this ‘*comprehensive economic development strategy*’.

²⁰ See, for example, Shared Responsibility Agreements (SRAs) between Indigenous communities and governments (Australian Government, Office of Indigenous Coordination, available at: <http://www.oipc.gov.au/> Accessed on 27 November 2006). See also Commonwealth Office of Indigenous Policy Coordination, *Indigenous Affairs Arrangements*, 2006, pp 32, 33.

²¹ Mr Westbury received a Commonwealth Public Service Medal for outstanding public service in the provision of public policy advice in Indigenous Affairs in June 2002 after some 30 years working in Indigenous Affairs.

²² Westbury, N, ‘*The governance of governments: Structural reform issues arising from Indigenous demographic trends*’, Key Note address to Newmont Stakeholder Dinner, Perth WA, 4 October 2006, p 10.

This is the context in which recent analysis has identified that:

one of the primary reasons for the continuation of extremely poor Indigenous social and economic outcomes over the past thirty years, and for the social crisis in many remote communities, has been the progressive disengagement of government institutions and civil society from Indigenous people's lives and concomitant impact on Indigenous citizens' own perceptions of their place in Australia...

There are a range of reasons why government disengagement has persisted in the Indigenous realm. First, in terms of service delivery, globalisation has meant that both the public and private sector have withdrawn infrastructure across the board in regional Australia. The progressive contraction of banks, post offices and other once common facilities in regional centres has meant that remote citizens have a more limited experience of national commercial norms and opportunities. In an economy where the vast majority of jobs are in service industries, the contraction of services is essentially the contraction of the so-called 'real economy'. As a result, Indigenous citizens miss out on the normal opportunities to participate in the economic and commercial life of the nation.²³

This disengagement has consisted of both a decline in service delivery and a decline in what has been referred to as '*the architecture of the state*', that is:

the framework of rules and opportunities which constrain, guide and empower all Australians. It is that framework which has disappeared in remote communities and probably to a substantial extent in urban Indigenous communities, and which must be renegotiated and redesigned with Indigenous communities...²⁴

Recent evidence in the coronial inquiry into a large number of Indigenous deaths in the Fitzroy Crossing region has highlighted the impact of this lack of services and engagement in remote Aboriginal communities. The mother of an 11 year old boy who committed suicide was reported as saying:

I'd like to see a lot of stuff happening here for kids, for young women, young men, old people - what other mainstream individuals in this whole of Australia have.²⁵

Current State initiatives, following the Gordon Inquiry,²⁶ are seeing the locating of police and child protection services in some remote communities. While this is bringing something of the '*architecture of the state*' back to these communities, it would be naïve to ignore that employment

²³ Westbury, N & Dillon, M, 'The Institutional Determinants of Government Failure in Indigenous Affairs', December 2006, pp 14, 15. See also Education and Health Standing Committee, *Where from? Where to? A Discussion Paper on Remote Aboriginal Communities*, Report No 6, State Law Publisher, Perth WA, 2007.

²⁴ Westbury, N & Dillon, M, 'The Institutional Determinants of Government Failure in Indigenous Affairs', December 2006, p 17.

²⁵ ABC News, 'Suicide victim's mother pleads for better services', 8 October 2007, Available at: www.abs.net.au/news/stories/2007/10/08/2054099.htm Accessed on 9 October 2007.

²⁶ Gordon, S, Hallahan, K & Henry, D, *Putting the Picture Together - Inquiry into Response by Government Agencies to Complaints of Family Violence and Child Abuse in Aboriginal Communities*, July 2002.

opportunities for Indigenous people in these areas of work carry inherent risks for Indigenous people. The Director of Equal Opportunity in Public Employment has highlighted how:

The careless or inadvertent deployment of Indigenous staff in roles or to tasks that may compromise their community relationships is a major employment risk factor for agencies, particularly those agencies that have coercive power. This can be addressed through cultural awareness training and by paying attention to the cultural security of Indigenous staff in organisations. Roles in public employment that would possibly experience this tension include:

- *Aboriginal Police Liaison*
- *Child Protection Officers*
- *Truancy Officers (Distract Attendance Officers)*

Such tensions should be understood and managed appropriately almost like a conflict of interest. These issues can usefully inform what is the right 'critical mass' described earlier [that is, 'The cultural isolation and alienation that Indigenous staff can experience in organizations... such that organizations need to target indigenous candidates 'en masse'... to ensure staff retention'].²⁷

It is evident, however, that the demand for services in remote communities goes well beyond coercive interventions, and as such could encompass training and employment opportunities for local Indigenous people which do not carry the risks inherent to more coercive roles.

The current situation in remote communities provides the State with an opportunity to stimulate employment for its Indigenous citizens in a meaningful and sustainable way. State employment of Indigenous people not only provides a basis to engage Indigenous people with government institutions, civil society and the 'real economy', it provides a vital opportunity to positively impact on 'Indigenous citizens' own perceptions of their place in Australia'.

Finding 3

The current situation in remote communities provides the State with an opportunity to stimulate employment for its Indigenous citizens in a meaningful and sustainable way.

It is of note that private sector agencies have demonstrated what can be achieved when commitment and the recognition of mutual benefit is brought to the issue of Indigenous employment. Rio Tinto, for example, advises that:

²⁷ Statement to the Educational and Health Standing Committee from the Director of Equal Opportunity in Public Employment, Office of Equal Employment Opportunity, 21 March 2007, p 7.

Positive engagement with Indigenous Australians leads to increased opportunity for Indigenous communities and improved access to land for mining...

In the mid 1990s, less than half a per cent of Rio Tinto's Australian workforce was Indigenous. In 2005, more than 700 (or seven per cent) of Rio Tinto employees in Australia are Indigenous.²⁸

Finding 4

Private sector agencies have demonstrated what can be achieved when commitment and the recognition of mutual benefit is brought to the issue of Indigenous employment, with Rio Tinto, for example, increasing the Indigenous representation in its workforce from less than half a per cent to seven per cent in 10 years.

1.3 Indigenous unemployment in WA

With reference to overall employment of Indigenous people in Western Australia, a report by the Department of Indigenous Affairs found that:

A relatively low proportion of the Indigenous population are engaged in employment when compared with non-Indigenous persons. This is the result of relatively low labour force participation rates coupled with a rate of unemployment that was 2-3 times higher than that for non-Indigenous persons in 2001. Further, CDEP [Community Development Employment Projects] employment accounts for over 30% of Indigenous employment, although this proportion is higher in very remote areas (69%).²⁹

In Western Australia in 2001, the overall unemployment rate was 7.5 per cent and the estimated rate of Indigenous unemployment was 19 per cent.³⁰ More recent data indicates that although the State's Indigenous unemployment rate has declined significantly since 2001, it is currently four times the rate for non-Indigenous Western Australians.³¹

²⁸ Rio Tinto, *Rio Tinto Aboriginal Policy and Programmes - Briefing Note*, October 2005, p 3.

²⁹ Department of Indigenous Affairs, *Overcoming Indigenous Disadvantage in Western Australia Report 2005*, 2005, p 59.

³⁰ Australian Bureau of Statistics (ABS), *Labour Force*, 6202.0, August 2007; ABS, *Australian Social Trends, 2004*, 4102.2. 2004.

³¹ In a recent Media Statement the Premier cited a current Indigenous unemployment rate of 14 per cent and an overall rate of 3.3 per cent (The Premier, Media Statement, 'Premier announces major initiatives to create jobs for indigenous Western Australians', 30 August 2007). Available ABS data indicates that the overall unemployment rate for Western Australia in August 2007 was 3.4 per cent, and the estimated Indigenous unemployment rate, in 2006, was 13.4 per cent (ABS, *Labour Force*, 6202.0, August 2007; ABS, *2006 Labour Force Characteristics of Aboriginal and Torres Strait Islander Australians, Experimental Estimates from the Labour Force Survey... 2002 to 2006*, 6287.0, 2007).

Finding 5

Although the Indigenous unemployment rate in Western Australia has declined significantly since 2001, it is currently four times the rate for non-Indigenous Western Australians.

On 30 August 2007, the Premier, the Hon Mr Alan Carpenter MLA, announced a major forum to tackle Indigenous unemployment in Western Australia. The forum is to be held on 30 November 2007. The Premier noted that although significant progress had been made:

...more needs to be done to get the indigenous unemployment rate much closer to the overall rate.

*However, we can't address this issue alone. This will require sustained effort from Government, industry and the indigenous community.*³²

The Committee welcomes the forum as an acknowledgment by government of its shared responsibility to address Indigenous unemployment in this State.

Finding 6

The Committee welcomes the announcement by the Premier of Western Australia of a major forum to tackle Indigenous unemployment in Western Australia, to be held on 30 November 2007, as an acknowledgment by government of its shared responsibility to address Indigenous unemployment in this State.

In announcing the forum the Premier stated:

*Government has a primary policy and leadership role to enable indigenous Western Australians to participate in the State and nation's economy, however this effort needs the willing participation and partnership of the private sector and of indigenous people to have any chance of success.*³³

The Committee accepts that the willing participation and partnership of the private sector and of Indigenous people is essential to addressing Indigenous unemployment. The Committee also agrees that government has a 'leadership role to enable Indigenous Western Australians to participate in the State and nation's economy'.

³² The Premier, Media Statement, 'Premier announces major initiatives to create jobs for indigenous Western Australians', 30 August 2007.

³³ *ibid.*

Finding 7

The willing participation and partnership of the private sector and of Indigenous people is essential to addressing Indigenous unemployment; however it is the State which has a:

primary policy and leadership role to enable Indigenous Western Australians to participate in the State and nation's economy.

The focus of this Report is on the role of the State as an employer of Indigenous Western Australians. This focus is not because the Committee advocates *'that Government has got to employ Aboriginal people ... The Government should do it all'*.³⁴ The Committee agrees that Aboriginal people should be able to engage in the non-government economy like others.³⁵

However, the Committee also believes that the State should fulfil its *'leadership role to enable Indigenous Western Australians to participate in the State and nation's economy'* by example as well as through policy. It hopes that this Report will contribute to this State reinvigorating its commitment to employment opportunities for Indigenous people through State agencies.

Recommendation 1

The Committee recommends that the State fulfil its *'leadership role to enable Indigenous Western Australians to participate in the State and nation's economy'* by example as well as through policy and reinvigorate its commitment to employment opportunities for Indigenous people through State agencies.

³⁴ ABC Online, Stateline Western Australia, 'Business challenged to employ more Indigenous West Australians', 31 August 2007, Available at www.abc.net.au/stateline/wa/content/2006/s2022683.htm Accessed on 11 September 2007.

³⁵ *ibid.*

CHAPTER 2 COMMITTEE SURVEY

2.1 Indigenous employment in the public and private sectors

The importance of public employment as an opportunity to engage with the wider economy for Indigenous Australians was the broader context in which the Committee determined to survey Western Australian State agencies³⁶ about Indigenous employment.

The most recent data available on Indigenous employment, based on Australian Bureau of Statistics (ABS) data collected in 2004/05, indicated that the public sector, which it defines as comprising of Commonwealth, State and Local Governments, continued to provide significant employment opportunities for Indigenous Australians. In Western Australia the public/private employment ratio for non-Indigenous employees was one to five (15.8 per cent to 80 per cent) compared to a public/private employment ratio for Indigenous employees of two to three (33.6 per cent to 51.6 per cent).³⁷

This data indicates that in Western Australia:

- Indigenous employees are more than two times more likely to be employed by government than non-Indigenous employees; and
- while public sector employment accounts for one-third of Indigenous employment it accounts for less than one-sixth of non-Indigenous employment.

³⁶ As used in this Report, the term 'State agencies' refers to the Western Australian State government agencies and statutory authorities as listed by the Department of the Premier and Cabinet and used by the Committee for the purposes of its survey on Indigenous employment by the State.³⁶ The term includes the Parliament of Western Australia (as the employer of parliamentary staff and electorate officers) and the Governor's Establishment, although these are not subject to the laws relating to 'Equal Opportunity in Public Employment' under Part IX of the *Equal Opportunity Act 1984* (WA) and the jurisdiction of the Director of Equal Opportunity in Public Employment.

³⁷ Steering Committee for the Review of Government Service Provision, *Overcoming Indigenous Disadvantage Key Indicators 2007 Report*, 2007, Table 11A.1.6. The figures for Western Australia approximate the national average ratio of public to private employment for non-Indigenous Australians of 16.5 per cent to 78.5 per cent, and 33.1 per cent public employment to 54.8 per cent for private employment for Indigenous Australians.

Finding 8

Public sector employment, (defined as employment by the Commonwealth, State and Local Governments) continues to provide significant opportunities for Indigenous Australians to participate in the wider economy. In Western Australia the public/private employment ratio for non-Indigenous employees was one to five compared to a public/private employment ratio for Indigenous employees of two to three.³⁸

This data indicates that in Western Australia:

- Indigenous employees are more than two times more likely to be employed by government than non-Indigenous employees; and
- while public sector employment accounts for one-third of Indigenous employment it accounts for less than one-sixth of non-Indigenous employment.

2.2 Legislative context of the survey

The Committee's survey took place against a background in which the importance of State public authorities³⁹ providing equal employment opportunity for Indigenous and other 'diversity groups' is already mandated in the provisions of Part IX of the *Equal Opportunity Act 1984* (WA).

The objects of that Part of the Act are to:

- eliminate and ensure the absence of discrimination in employment in public authorities on all the grounds covered by the *Equal Opportunity Act 1984* (which includes 'race'); and
- promote equal employment opportunity for all persons in public authorities.

³⁸ Steering Committee for the Review of Government Service Provision, *Overcoming Indigenous Disadvantage Key Indicators 2007 Report*, 2007, Table 11A.1.6. The figures for Western Australia approximate the national average ratio of public to private employment for non-Indigenous Australians of 16.5 per cent to 78.5 per cent, and were 33.1 per cent public employment to 54.8 per cent for private employment

³⁹ 'Public authorities' is the term used in Part IX of the *Equal Opportunity Act 1984* (WA) and defines the jurisdiction of the Director of Equal Opportunity in Public Employment. The term includes the State public service and any 'State trading concern, State instrumentality, State agency, or any public statutory body, corporate or unincorporate established by or under a law of the State' (section 139). Although the Director's jurisdiction also extends to local government authorities and public universities, these 'public authorities' are not examined in this Report

With two exceptions the State agencies surveyed by the Committee fell within the jurisdiction of the Director of Equal Opportunity in Public Employment. Those two exceptions are the Governor's Establishment and the Parliament of Western Australia.

Part IX requires, amongst other things, that public authorities report annually to the Director of Equal Opportunity in Public Employment with data on the profile of their workforce and the current equal employment opportunity management plan. The plans must include:

- policies and programmes by which equal employment opportunity is to be achieved;
- the collection and recording of appropriate information;
- the review of personnel practices within the authority with a view to the identification of any discriminatory practices; and
- the setting of goals or targets, where these may reasonably be determined, against which the success of the management plan may be assessed⁴⁰

Those government departments and statutory authorities which employ more than 50 employees are also required to develop performance objectives for groups, including 'Indigenous Australians', who are covered by the State government's *Equity and Diversity Plan for the Public Sector Workforce*.⁴¹

Part IX of the *Equal Opportunity Act 1984* (WA) is discussed further in Chapter 4.

Of the State agencies surveyed by the Committee, only the Parliament of Western Australia (in its dual capacities as the employer of parliamentary staff and electorate officers) and the Governor's Establishment, were not subject to the laws relating to '*Equal Opportunity in Public Employment*' under Part IX of the *Equal Opportunity Act 1984* (WA) and to the jurisdiction of the Director of Equal Opportunity in Public Employment.⁴²

Finding 9

The objects of Part IX of the *Equal Opportunity Act 1984* (WA) are to:

- eliminate and ensure the absence of discrimination in employment in public authorities on all the grounds covered by that Act (which includes 'race'); and
- promote equal employment opportunity for all persons in public authorities.

⁴⁰ *Equal Opportunity Act 1984* (WA), section 145.

⁴¹ Office of Equal Employment Opportunity, 'Information collected by the OEEO', Available at www.oeeo.wa.gov.au/data/index.htm Accessed on 11 October 2007.

⁴² The Governor's Establishment advised in its *Annual Report 2005-2006*, that '*EEO programs and initiatives are implemented within the scope of the Governor's Establishment Act 1992*' (at p 6). The Western Australian Parliament is discussed in Chapter 2.5(a).

Part IX requires, amongst other things, that all public authorities report annually to the Director of Equal Opportunity in Public Employment with data on the profile of their workforce and the current equal employment opportunity management plan.

Those government departments and statutory authorities which employ more than 50 employees are also required to develop performance objectives for groups, including *'Indigenous Australians'*, who are covered by the State government's *Equity and Diversity Plan for Public Sector Workforce*.

Almost all of the State agencies surveyed by the Committee on Indigenous employment rates and initiatives to increase or retain Indigenous staff were subject to the laws under Part IX of the *Equal Opportunity Act 1984 (WA)*.

It might be expected that these legislative obligations would make it a relatively simple exercise for public authorities to respond to a survey on Indigenous employment. As highlighted in Chapter 2.3 (b), however, this proved not to be the case.

2.3 Methodology for the survey

The initial work for this Report was undertaken by the Committee in late 2006, when a survey of Indigenous employment by State agencies was undertaken. The Committee subsequently had the opportunity to explore the monitoring and evaluation of Indigenous employment by State public authorities through a formal hearing on 21 March 2007 with the Director of Equal Opportunity in Public Employment, Ms Noela Taylor, and the Director, Diversity, Mr Alan Barrett, both from the Office of Equal Employment Opportunity.

Unfortunately the report on Indigenous employment by the State had not been finalised before the Legislative Assembly referred the Inquiry into the Cause and Extent of Lead Pollution in the Esperance Area to this Committee on 4 April 2007. The Committee reported its findings and recommendations on that inquiry to the Legislative Assembly on 6 September 2007.

As a result of the referred inquiry, the publication of this Report has been considerably delayed. However, recent data available from the Office of Equal Employment Opportunity, incorporated into this Report, indicates that the results of the survey undertaken by the Committee remain relevant.

(a) Initial mail out

On 4 October 2006, the following request was mailed to 128 State agencies:⁴³

⁴³ Department of the Premier and Cabinet Public Sector Management website mailing list, available at: <http://www.dpc.wa.gov.au/psmd/services/mail/maillist.html> Accessed on 4 October 2006. The original mail out was to 133 agencies but correspondence was subsequently returned or advice was received that five of those agencies were no longer in existence or had been incorporated into other entities.

The Education and Health Standing Committee of the Legislative Assembly has recently embarked upon an inquiry into successful initiatives in Aboriginal communities and has a particular interest in programs which have contributed to health and education in those communities.

The Committee is conscious, however, that accessible employment pathways are essential to the health and education of Indigenous, and other, citizens. As a result, at its meeting on 27 September 2006, the Committee resolved, by way of background, to request that each State agency provide a brief outline responding to the following:

- (i) The number of Full Time Equivalent (FTE) agency positions;*
- (ii) The number of FTE positions filled by Indigenous agency employees;*
- (iii) Any initiatives currently in place to increase the number of and/or to retain Indigenous employees within the agency;*
- (iv) Any proposed initiatives to increase the number of and/or to retain Indigenous employees within the agency; and*
- (v) Any previous initiatives to increase the number of and/or to retain Indigenous employees within the agency and how the agency assessed the effectiveness of such initiatives.*

Please note that the Committee is seeking only a very brief reply to each of the matters listed and it would be appreciated if you could arrange for your agency's response to be provided to the Committee within four weeks of the date of this letter.

It was expected that the agencies would respond by 1 November 2006.

Finding 10

On 4 October 2006, a survey was mailed out to 128 State agencies by the Education and Health Standing Committee seeking information on Indigenous employment rates and initiatives to increase or retain Indigenous staff. Agencies were requested to respond within four weeks.

(b) Lack of response

The Committee noted with concern that as at close of business 28 November 2006, one-third of the State agencies contacted (38 out of 128⁴⁴) had not responded to the Committee's survey. As indicated, the Committee requested only a brief response from agencies, almost all of which

⁴⁴ Refer to footnote 43, correspondence was returned or advice was received that five of the 133 agencies included in the initial mail out were no longer in existence or had been incorporated into other entities.

should have had the information requested readily to hand under the legislative requirements referred to previously.

Finding 11

Two months after the survey on Indigenous employment was mailed out, one third of the 128 State agencies contacted had not responded.

The Committee had sought only a brief response from these agencies, almost all of which should have had the information requested readily to hand under legislative requirements.

Although the Committee's initial intention had been to publish a report highlighting this lack of response, it resolved that it would provide a second opportunity to agencies to respond.

A second mail out was undertaken on 6 December 2006, seeking a response no later than by 26 January 2007.

Despite two written requests, nine State agencies have failed to respond to the Committee's survey.⁴⁵ One of the agencies not responding was the agency responsible for the employment of 'Electorate Officers'. Similar to parliamentary staff of the Legislative Assembly and Legislative Council, 'Electorate Officers' – parliamentarians' staff members - are employed by the Parliament's Presiding Officers.⁴⁶ The Presiding Officers' delegate, the Director General of the Department of the Premier and Cabinet, provided no response in relation to the Committee's survey for electoral staff, although data was provided for staff of the Department of the Premier and Cabinet.⁴⁷

Finding 12

Despite two written requests, nine agencies have failed to respond to the Committee's survey. Those agencies are:

- Central West TAFE
- Department of Land Information

⁴⁵ Refer to Appendix 2.

⁴⁶ The Western Australian Parliament's Presiding Officers are the President of the Legislative Council and the Speaker of the Legislative Assembly.

⁴⁷ As nominated in the Department of the Premier and Cabinet mailing list for State government agencies and statutory authorities (available at: <http://www.dpc.wa.gov.au/psmd/services/mail/maillist.html> Accessed on 4 October 2006).

- Electorate Offices
- Independent Market Operator
- Main Roads Western Australia
- Metropolitan Cemeteries Board
- Subiaco Redevelopment Authority
- Swan TAFE
- Western Australian Institute of Sport

In relation to *'Electorate Offices'*, staff are employed by the Parliament's Presiding Officers and their delegate is the Director General of the Department of the Premier and Cabinet. The Director General provided no response to the Committee's survey for electorate staff, although he did provide data for staff employed by the Department of the Premier and Cabinet.

2.4 Survey responses

A response to the Committee's survey was received from 50 public agencies by the initial deadline of 1 November 2006. Over the following few weeks, another 43 agencies responded.

After the reminder letter of 6 December 2006, an additional 26 agencies responded. The latest response received was in June 2007.

A total of 119 State agencies responded to the Committee's survey. A list of those responses, the date of receipt, and the figures provided is included at Appendix 3. With a response rate of over 90 per cent, the survey data provides a reliable insight into the level of, and approach to, Indigenous employment by State agencies.

Finding 13

A total of 119 of the 128 State agencies surveyed responded. With a response rate of over 90 per cent, the survey data provides a reliable insight into the level of, and approach to, Indigenous employment by State agencies.

(a) Absence of data

Two of the agencies responding were unable to report how many Indigenous people they employed.

Finding 14

Two of the State agencies surveyed were unable to report how many Indigenous people they employed.

Synergy, which described itself as '*a new business*', stated that '*The number of FTE occupied by Indigenous agency employees is not known at this point*' but expected to rectify this with the implementation of an Equity and Diversity Plan.⁴⁸ For the purposes of its survey the Committee recorded that there were no Indigenous employees at Synergy.⁴⁹

Finding 15

Synergy, which described itself as '*a new business*', stated that '*The number of FTE [Full Time Equivalent positions] occupied by Indigenous agency employees is not known at this point*' but expected to rectify this with the implementation of an Equity and Diversity Plan.

For the purposes of its survey the Committee recorded that there were no Indigenous employees at Synergy.

The Western Australian Parliament was the other State agency which was unable to provide data on the Indigenous people it employed. In a joint response from the Parliamentary Services Department, Legislative Council and Legislative Assembly, on behalf of the Western Australian Parliament, the Committee was advised that:

*As we do not record information regarding employee's birth place we are unable to report how many Indigenous employees are filling FTE positions.*⁵⁰

The Committee believes that the number of FTE positions filled by Indigenous employees at the Western Australian Parliament is nil.

⁴⁸ Letter from Ms C Piccioni, HR Business Partner, Synergy, 27 November 2006.

⁴⁹ The subsequent 2006/07 Synergy Equal Employment Opportunity report to the Office of Equal Employment Opportunity noted that there were only two Indigenous employees out of a total of 359 employees (0.6%) (Director of Equal Opportunity in Public Employment, 2007 Annual Report, p 90).

⁵⁰ Letter from Executive Manager, Parliamentary Services, 18 October 2006; letter from the President of the Legislative Council and the Speaker of the Legislative Assembly, 28 November 2006.

Finding 16

The Western Australian Parliament was also unable to provide data on the Indigenous people it employed.

In a joint response to the Committee's survey from the Parliamentary Services Department, Legislative Council and Legislative Assembly, on behalf of the Western Australian Parliament, the Committee was advised that:

As we do not record information regarding employee's birth place we are unable to report how many Indigenous employees are filling FTE [Full Time Equivalent] positions.

The Committee believes that the number of FTE positions filled by Indigenous employees at the Western Australian Parliament is nil.

The Committee notes that the Parliament is not subject to the jurisdiction of the Director of Equal Opportunity in Public Employment, referred to previously in Chapter 2.2, and more generally is not subject to the laws applicable to others unless bound within the terms of legislation.⁵¹

Finding 17

The Parliament is not subject to the jurisdiction of the Director of Equal Opportunity in Public Employment, and more generally is not subject to the laws applicable to others unless bound within the terms of legislation.

The Committee is aware, however, that the Parliament has stated that it is committed to equal employment opportunity principles and has undertaken to develop policies consistent with these principles over some years.⁵²

In response to further correspondence from the Committee, the Presiding Officers of the Parliament, Hon Nick Griffiths, MLC, President of the Legislative Council and Hon Fred Riebeling, MLA, Speaker of the Legislative Assembly, stated that:

⁵¹ As indicated previously, electorate officers are also employed by the Parliamentary Presiding Officers. Although this employment is not reported in the Parliamentary departments' annual reports, it appears that, similar to other parliamentary staff, electorate officers' employment is not subject to the jurisdiction of the Director of Equal Opportunity in Public Employment.

⁵² Parliament of Western Australia, *Parliamentary Employees General Agreement 2004*, clause 47; Parliament of Western Australia, *Parliamentary Employees General Agreement 2006*, clause 50.

Irrespective of the current absence of workforce ethnicity data or specific initiatives to increase the diversity of our workplace, our commitment to equal employment principles is evidenced by, for example, Human Resource unit staff representation in recruitment selection processes and on selection committees...⁵³

On 12 September 2007, Parliament developed its first Equal Employment Opportunity policy. It stated as follows:

The Code of Conduct for employees of the Parliament of Western Australia states:

“The Employers consider it the right of every individual to be treated fairly and with respect and to carry out their job in an environment which promotes job satisfaction, maximises productivity, and provides economic security. Such an environment is dependant on Employees being free of all forms of harassment and victimisation. You must not harass anyone (sexually or otherwise) or discriminate on, for instance, the grounds of, sex; sexual preference; age; marital status; pregnancy; the state of being a parent; childless or a de facto spouse; race; colour; national extraction; lawful religious or political belief or activity; or mental or physical impairment. The principles of the Western Australian and the Commonwealth equal employment opportunity and anti-discrimination legislation are fully supported”.

Parliamentary Departments apply equal employment opportunity in the Parliament of Western Australia and will ensure that:

- *All Parliamentary Departments are free from bias or discrimination.*
- *Human Resources policies and practices are fair and equitable.*
- *All staff are valued and individual differences are recognised and supported.*
- *Parliamentary Departments are free of all types of harassment, including sexual and racial harassment, and victimisation.*
- *There are no barriers to fair and equitable outcomes for all employees and potential employees.*

Finding 18

The Parliament of Western Australia has stated its commitment to equal employment opportunity principles over some years and developed its first Equal Employment Opportunity policy on 12 September 2007.

⁵³ Letter from Hon Nick Griffiths, MLC, President of the Legislative Council and Hon Fred Riebeling, MLA, Speaker of the Legislative Assembly, 8 May 2007.

(b) Available data

All other respondents to the Committee's survey were in a position to provide the data requested. However, a number cautioned about the reliability of the data provided, highlighting that it is optional for Indigenous employees to elect to identify as Indigenous in their employment records.

The Committee notes with concern that 54 of the State agencies responding (45 per cent), particularly the 20 which had more than 30 Full Time Equivalent (FTE) positions, reported no Indigenous employees. One such agency was the Office of the Public Sector Standards Commissioner which incorporates the Office of Equal Employment Opportunity.⁵⁴

Finding 19

The Committee notes with concern that almost half of the 119 State agencies responding to the Committee survey employed no Indigenous employees.

Included amongst those agencies were 20 agencies which had more than 30 Full Time Equivalent (FTE) positions. Those agencies were:

- Animal Resource Centre
- Aqwest
- Builders' and Painter's Registration Board of Western Australia
- Corruption and Crime Commission
- Country High Schools Hostel Authority
- Curriculum Council of Western Australia
- Forest Products Commission
- Government Employees Superannuation Board
- Legal Practice Board
- Office of Energy
- Office of the Auditor General
- Office of the Public Sector Standards Commissioner

⁵⁴ In a letter dated 23 October 2007, the then Commissioner of Public Sector Standards advised that:

The number of FTE positions filled by Indigenous agency employees = 1 until late 2005/06; another Indigenous employee will be commencing work with the agency in November.

- Parliament of Western Australia
- Racing and Wagering Western Australia
- Small Business Development Corporation
- Swan River Trust
- Synergy
- Western Australian Greyhound Racing Association
- Western Australian Treasury Corporation
- Worker's Compensation and Rehabilitation Commission

It is of note that the Office of the Public Sector Standards Commissioner incorporates the Office of Equal Employment Opportunity.

An additional 17 State agencies (14 per cent), which each had over 100 FTE positions, had an Indigenous employment rate of less than one per cent. One of those agencies was the Department of the Premier and Cabinet which is responsible for Public Sector Management. Four other agencies included amongst these respondents had over 1,000 FTE - the Department for Planning and Infrastructure, Fire and Emergency Services Authority, Public Transport Authority and Western Power.

Finding 20

An additional 17 State agencies (14 per cent), which each had over 100 Full Time Equivalent (FTE) positions, had an Indigenous employment rate of less than one per cent. These agencies were:

- Botanic Gardens and Parks Authority
- Central TAFE
- Department for Planning and Infrastructure
- Department of Consumer and Employment Protection
- Department of the Premier and Cabinet
- Department of Treasury and Finance
- Fire and Emergency Services Authority

- Fremantle Port Authority
- Lotteries Commission
- Public Transport Authority
- Rottnest Island Authority
- Verve Energy
- Western Australian Land Authority
- Western Australian Sports Centre Trust
- Western Australian Tourism Commission
- Western Power
- Zoological Parks Authority

It is of note that the Department of the Premier and Cabinet is responsible for Public Sector Management and that four of the other agencies included amongst these respondents had over 1,000 FTE positions - the Department for Planning and Infrastructure, Fire and Emergency Services Authority, Public Transport Authority and Western Power.

Only 22 of the 119 agencies responding to the survey (18 per cent) had a rate of Indigenous employment which was not below 3.2 per cent, the figure nominally representing '*parity with community demographics*' used as the basis for the State's Indigenous public employment targets.⁵⁵

Finding 21

Only 22 of the 119 State agencies which responded to the Committee's survey (18 per cent) had a rate of Indigenous employment which was not below 3.2 per cent, the figure nominally representing '*parity with community demographics*' used as the basis for the State's Indigenous public employment targets. Those agencies were:

- Albany Port Authority
- Broome Port Authority

⁵⁵ Government of Western Australia, *Equity and Diversity Plan for the Public Sector Workforce 2006-2009*, p 6; Statement to the Educational and Health Standing Committee from the Director of Equal Opportunity in Public Employment, Office of Equal Employment Opportunity, 21 March 2007, p 17.

- C. Y. O'Connor College of TAFE
- Department for Community Development
- Department of Corrective Services
- Department of Education Services
- Department of Environment and Conservation
- Department of Housing and Works
- Department of Indigenous Affairs
- Department of Local Government and Regional Development
- Department of Sport and Recreation
- Department of the Attorney General
- Drug and Alcohol Office
- Equal Opportunity Commission
- Gascoyne Development Commission
- Great Southern TAFE
- Kimberley Development Commission
- Kimberley TAFE
- Mid West Development Commission
- Office of the Inspector of Custodial Services
- Pilbara TAFE
- South West Development Commission

The calculation of the State's Indigenous employment targets is examined in more detail in Chapter 4. However, as indicated, the targets are nominally based on Indigenous community representation rather than the Indigenous workforce participation rate, of 2.5 per cent.⁵⁶ The proportion of Indigenous people participating in the workforce tends to be lower than the proportion in the community as a result of factors such as:

⁵⁶ ABS, *2006 Labour Force Characteristics of Aboriginal and Torres Strait Islander Australians, Experimental Estimates from the Labour Force Survey... 2002 to 2006*, 6287.0, 2007.

- the larger proportion of Indigenous youth;
- limited educational and employment opportunities in remote communities;
- poor health; and
- in some circumstances, community or generational disengagement from the workforce.⁵⁷

By benchmarking Indigenous employment for the Western Australian public sector against community representation (nominally 3.2 per cent) rather than workforce participation (2.5 per cent), the affect of disadvantage and disengagement on current workforce participation by Indigenous people is acknowledged.

Finding 22

The proportion of Indigenous people participating in the workforce tends to be lower than the proportion in the community as a result of factors such as:

- the larger proportion of Indigenous youth;
- limited educational and employment opportunities in remote communities;
- poor health; and
- in some circumstances, community or generational disengagement from the workforce.

By benchmarking Indigenous employment for the Western Australian public sector against community representation (nominally 3.2 per cent) rather than workforce participation (2.5 per cent), the affect of disadvantage and disengagement on current workforce participation by Indigenous people is acknowledged.

Based on the 119 survey responses received, covering more than 90 per cent of the State agencies listed by the Department of the Premier and Cabinet, the State's Indigenous employment rate was 2.17 per cent of FTE positions. The Committee notes that this is not a precise figure. In addition to the discretionary identification as an Indigenous employee, the information provided by agencies did not all relate to the same reporting period.

Although the indicated employment rate is not precise, it indicates that there is a gap between representation of Indigenous people in State employment and the representation of Indigenous people in both the community (nominally 3.2 per cent) and the workforce (2.5 per cent).

⁵⁷ Steering Committee for the Review of Government Service Provision, *Overcoming Indigenous Disadvantage Key Indicators 2007 Report*, 2007. See also Tables 4.1 and 4.2.

Finding 23

Based on survey responses covering more than 90 per cent of the State agencies in Western Australia, the Indigenous employment rate was 2.17 per cent of Full Time Equivalent (FTE) positions.

The Committee notes that this is not a precise figure. However, it indicates that there is a gap between the representation of Indigenous people in State employment and the representation of Indigenous people in both the community (nominally 3.2 per cent) and the workforce (2.5 per cent).

(c) Initiatives to increase or retain Indigenous employment levels

Given that Indigenous employment levels by State agencies still fall below the broader community representation of Indigenous people in the State, the Committee regarded the initiatives in place to increase or retain Indigenous employment levels as significant.

In response to the request for information about the initiatives currently in place to increase the number of and/or to retain Indigenous employees within State agencies, more than half of the responding agencies reported that they had none. A number of agencies that had no such initiatives in place responded that their selection of staff *'is based purely on merit'*.

Finding 24

In response to the Committee's request for information about the initiatives currently in place to increase the number of and/or to retain Indigenous employees within State agencies, more than half of the responding agencies reported that they had none.

Included amongst those agencies were the following, each of which had 30 or more Full Time Equivalent (FTE) positions:

- Animal Resource Centre
- Aqwest
- Builders' and Painter's Registration Board of Western Australia
- Country High School Hostels Authority
- Curriculum Council of Western Australia
- Department for Planning and Infrastructure

- Department of Education Services
- Department of Sport and Recreation
- Department of Treasury and Finance
- East Perth Redevelopment Authority
- Esperance Port Authority
- Forest Products Commission
- Fremantle Port Authority
- Government Employees Superannuation Board
- Legal Practice Board
- Lotteries Commission
- Office of Energy
- Office of the Public Sector Standards Commissioner
- Parliament of Western Australia
- Racing and Wagering Western Australia
- Small Business Development Corporation
- Synergy
- Western Australian Greyhound Racing Association
- Western Australian Electoral Commission
- Western Australian Land Authority
- Western Australian Sports Centre Trust
- Western Australian Treasury Corporation
- Western Power
- Workers' Compensation and Rehabilitation Commission

A number of agencies that had no such initiatives in place responded that their selection of staff *'is based purely on merit'*.

Some agencies, which did have initiatives in place to increase or retain Indigenous employment levels, indicated that initiatives relied upon the availability of Commonwealth, private or other external funding. Examples include:

Strong advocacy for Commonwealth over last five years to formalise long term funding and program commitment to confirm tenure and employment certainty for Indigenous employees.

The [agency] is currently investigating a source of funding for a part-time Indigenous officer in [a regional centre]. In principle, agreement has been given for one year funding from the Community Development Employment Projects (CDEP) agency. However, they have indicated that there is unlikely to be a suitable person to fill the position, as current office requirements would make it difficult to support an untrained officer.

Other agencies indicated that their efforts were directed externally, encouraging others to employ Indigenous staff.

Finding 25

Some of the State agencies responding to the Committee survey, which did have initiatives in place to increase or retain Indigenous employment levels, indicated that initiatives relied upon the availability of Commonwealth, private or other external funding.

Other agencies indicated that their efforts were directed externally, encouraging others to employ Indigenous staff.

The Committee is pleased to acknowledge, however, that a number of the State agencies responding to its survey have implemented or are developing innovative and thoughtful initiatives to improve their Indigenous employment and retention levels. Some examples include:

Revision of application forms to make them more culturally sensitive [and a] trial of video applications with two Indigenous communities.

Current initiatives include a strong commitment to targeted recruitment, training and job placement of Indigenous employees through the Youth Traineeship Program. The initiative seeks to recruit Indigenous employees and provide them with a structured program of TAFE training and planned job placements over a period of 12 months. At the conclusion of the 12 months and subject to successful graduation, Indigenous Trainees are offered employment with the [agency].

Where possible the numbers of permanent Aboriginal employees are increased through employment processes which take into account the requirements of the local community.

This is achieved through the inclusion of an Aboriginal staff or community member on most selection panels... In order to address cultural and ceremonial requirements the [agency] embraces flexible work practices allowing all employees access to time away from work for the participation in significant cultural or ceremonial events.

Finding 26

A number of State agencies responding to the Committee's survey have implemented or are developing innovative and thoughtful initiatives to improve Indigenous employment and retention levels.

2.5 Conclusion

The Committee acknowledges that identification as an Indigenous employee is discretionary. It also acknowledges that there are State agencies which are making serious efforts to engage and retain Indigenous employees.

Nonetheless, when the State's Indigenous employment target is 3.2 per cent, nominally based on '*parity with community demographics*', and Indigenous workforce participation is 2.5 per cent, an indicative State agency Indigenous employment rate of only 2.17 per cent FTE is of concern. It is also of concern that:

- many agencies' responses to the Committee's survey were delayed or non-existent;
- the majority of agencies responding to the Committee survey, some of considerable size, have no or hardly any Indigenous employees;
- the majority of agencies responding to the Committee's survey have no initiatives in place to increase or retain Indigenous employment levels; and
- various responses implied that workplace diversity initiatives were inconsistent with merit selection, that Indigenous employment needed to be externally funded, and that the role of State agencies was to secure others' employment of Indigenous people.

Finding 27

The Committee is concerned by the number of delayed or non-existent State agency responses to its survey on Indigenous employment.

The Committee is even more concerned by the survey results which indicate that:

- the State agency Indigenous employment rate was only 2.17 per cent of all Full Time Equivalent (FTE) positions compared to the State's Indigenous employment target of 3.2 per cent (nominally representing *'parity with [Indigenous] community demographics'*), and to an Indigenous workforce participation rate of 2.5 per cent;
- the majority of agencies, some of considerable size, have no or hardly any Indigenous employees;
- the majority of agencies have no initiatives in place to increase or retain Indigenous employment levels; and
- various agencies view workplace diversity initiatives as being inconsistent with merit selection, Indigenous employment as reliant upon external funding, and the role of State agencies as being to secure others' employment of Indigenous people.

The Committee is of the view that it has sufficient material available to it to find that, despite legislative obligations to provide equal employment opportunity, the creation of Indigenous employment pathways is not looked upon as a core responsibility by many public sector and other State authorities in WA.

Finding 28

Based on the material presently available to it, the Education and Health Standing Committee believes that, despite legislative obligations to provide equal employment opportunity, the creation of Indigenous employment pathways is not looked upon as a core responsibility by many public sector and other State authorities in Western Australia.

CHAPTER 3 PUBLIC SECTOR EMPLOYMENT OF INDIGENOUS PEOPLE

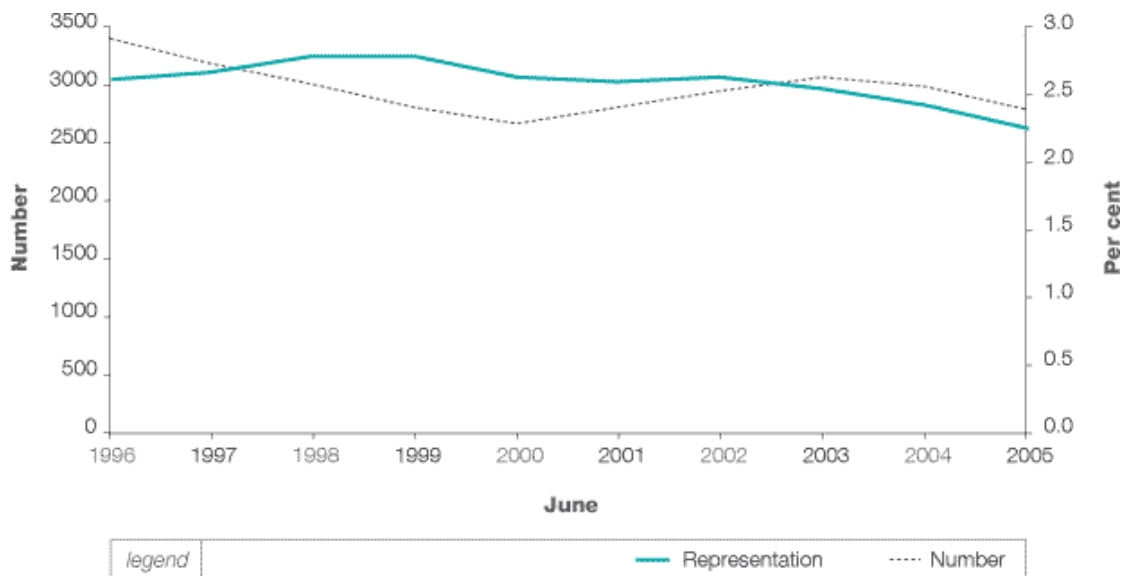
To understand the significance of the Committee’s survey results it is important to place these within the broader context of public sector employment of Indigenous people.

As outlined in this Chapter in more detail, the public sector, both Commonwealth and State, traditionally provided significant employment opportunities for Indigenous people. There are indications however, that this may be changing, particularly at Commonwealth level and also as a consequence of recent changes to the Community Development Employment Projects (CDEP) program which funded a substantial amount of the public employment available to Indigenous Australians.

3.1 Commonwealth

The representation of Indigenous Australians in the Commonwealth’s Australian Public Service (APS) continues to compare favourably with that in the broader Australian workforce, of which only 1.4 per cent identified as Indigenous.⁵⁸ It is of note, however, that there has been an ongoing decline in Commonwealth public sector employment of Indigenous Australians in recent years. The number and proportion of Indigenous Australians employed in the APS between 1992 and 2005 are indicated in Figure 3.1.

Figure 3.1 - Ongoing Aboriginal and Torres Strait Islander APS employees, 1996 to 2005⁵⁹



⁵⁸ Commonwealth Australian Public Service Commission, *Census Report Aboriginal and Torres Strait Islander APS Employees*, 2006, p 8.

⁵⁹ *ibid.*

In 2004/05 the APS recognised that:

The decline in employment of Aboriginals and Torres Strait Islanders in the APS that has been observed since 1999 continued in the year to June 2005. The decline was in fact sharper than it has been in recent years, with representation rates falling to 2.2% of ongoing employees, down from 2.4% in 2004. The number of ongoing Aboriginal and Torres Strait Islander employees fell from 2946 to 2770 - a fall of 6.0%. This compares unfavourably with the slight increase in total ongoing employee numbers for the whole APS of 0.8% over the year.⁶⁰

In August 2005, the APS developed a strategy to address the:

critical business challenge facing the APS, which reduced agencies' ability to draw on the perspectives and abilities of a diverse workforce that reflects the needs and views of the whole Australian community.⁶¹

Despite the implementation of this policy and a substantially increased APS workforce, the number and proportion of Indigenous APS staff declined further in 2006, from 2,775 (2.2%) in 2005, to 2,750 (2.0%),⁶² This compared to the APS of 1992 in which 2,746 Indigenous Australians were employed out of a total ongoing workforce of 142,372 (1.9%).⁶³ Over the same period the number of people identifying as Indigenous in Australia increased by approximately 40 per cent (from 375,000 to more than 500,000).⁶⁴ The number of Indigenous people in the workforce increased from 105,200 (in 1994)⁶⁵ to 186,900 (in 2006),⁶⁶ an increase of almost 80 per cent.

Finding 29

Although the two per cent representation of Indigenous employees in the Commonwealth's Australian Public Service (APS) continues to be higher than the 1.4 per cent representation in the Australian workforce generally, the actual number of Indigenous employees in the APS is

⁶⁰ Commonwealth Australian Public Service Commission, *Census Report Aboriginal and Torres Strait Islander APS Employees*, 2006, p 7.

⁶¹ Australian Public Service Commission, 'APS Employment and Capability Strategy for Aboriginal and Torres Strait Islander Employees', Available at www.apsc.gov.au/indigenousemployment/indx.html Accessed on 20 September 2007.

⁶² Commonwealth Australian Public Service Commission, *State of the Service 2005-06 - At a Glance*, 2006.

⁶³ Australian Public Service Commission, *Australian Public Sector Statistical Bulletin 2005-06*, 2006, p 108.

⁶⁴ ABS, *The Health and Welfare of Australia's Aboriginal and Torres Strait Islander Peoples*, 2005, Appendix 2, Estimates and Projections of the Indigenous Population, 1991 to 2009; ABS, Media Release, 'Aboriginal and Torres Strait Islander population tops half a million: ABS', 15 August 2007.

⁶⁵ ABS, *Australian Social Trends, 1996*, 4102.0, 'Paid Work: Work and Indigenous People'.

⁶⁶ ABS, *2006 Labour Force Characteristics of Aboriginal and Torres Strait Islander Australians, Experimental Estimates from the Labour Force Survey... 2002 to 2006*, 6287.0.

currently the same as it was in 1992 (at 2,750 (2.0%) in 2006 and 2,746 (1.9%) in 1992).

Over the same period the number of people identifying as Indigenous in Australia increased by approximately 40 per cent, to a total of more than half a million people (2.5% of the total population). The number of Indigenous people in the workforce increased from 105,200 (in 1994) to 186,900 (in 2006), an increase of almost 80 per cent.

3.2 Western Australia

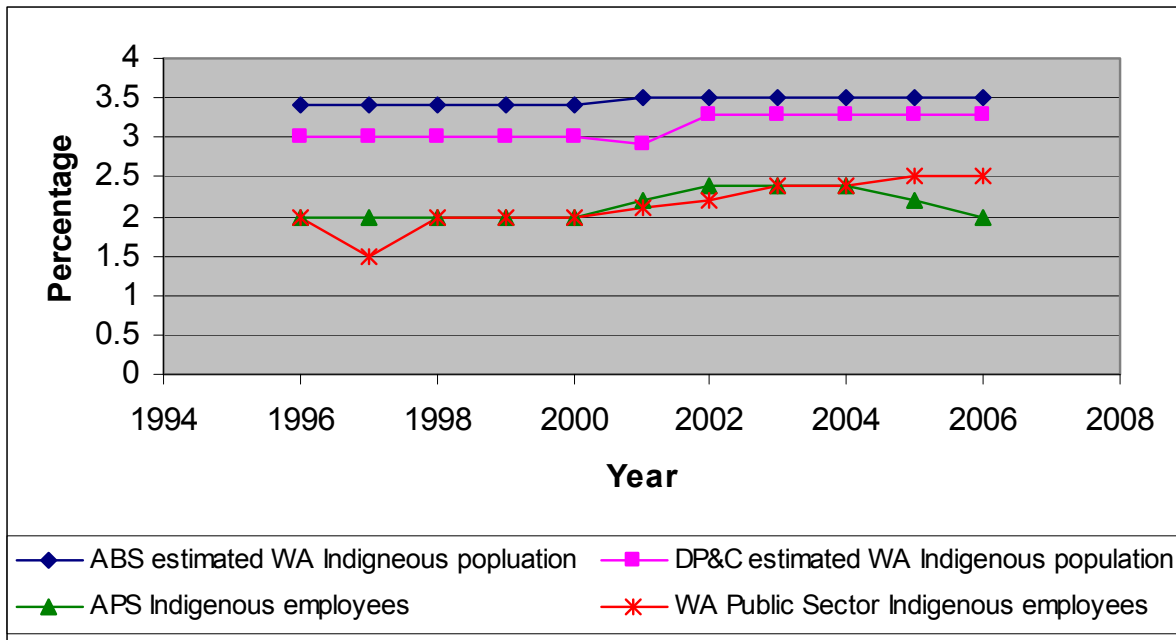
In contrast, the proportional representation of Indigenous people in the Western Australian public sector increased from 2.0 per cent in 1996 to 2.5 per cent in 2006 (refer to Table 3.1 and Figure 3.2).

Table 3.1 - Indigenous population data⁶⁷

Year	ABS estimated WA Indigenous population	DP&C estimated WA Indigenous population	APS Indigenous employees	WA Public Sector Indigenous employees
1996	3.4	3	2	2
1997	3.4	3	2	1.5
1998	3.4	3	2	2
1999	3.4	3	2	2
2000	3.4	3	2	2
2001	3.5	2.9	2.2	2.1
2002	3.5	3.3	2.4	2.2
2003	3.5	3.3	2.4	2.4
2004	3.5	3.3	2.4	2.4
2005	3.5	3.3	2.2	2.5
2006	3.5	3.3	2	2.5

⁶⁷ Data is taken from ABS *Australian Social Trends, Data Cube*, Table 2.5, 2007, and the Equal Employment Opportunity figures published annually in the Public Sector Management Office (DP&C) *Profiles of the Western Australian State Government Workforce* publications between 1996 and 2006.

Figure 3.2 - Indigenous Population data⁶⁸



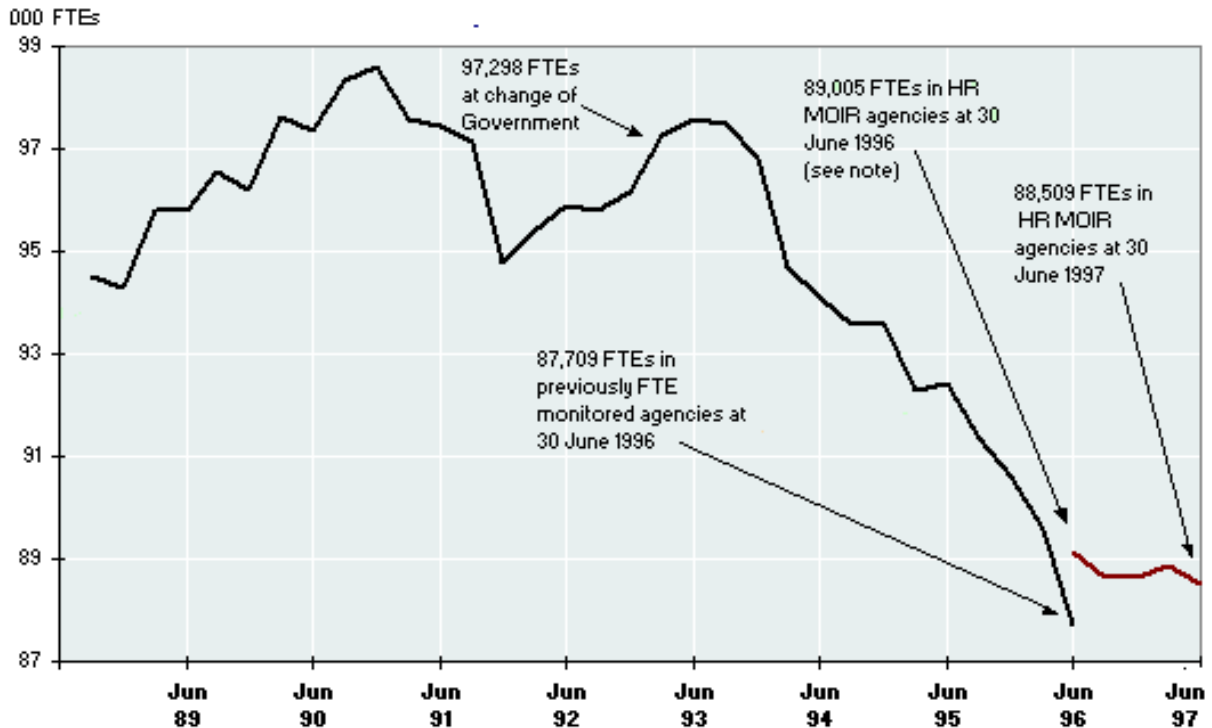
Finding 30

According to data published annually by the Public Sector Management Office (Department of the Premier and Cabinet), representation of Indigenous people in Western Australian public sector employment increased from 2.0 per cent in 1996 to 2.5 per cent in 2006; an increase of 25 per cent.

Similar to the APS, however, until recently the size of the Western Australian public sector had been in general decline since 1990 (refer Figures 3.3, 3.4 and Table 3.2).

⁶⁸ Data is taken from the Equal Employment Opportunity figures published annually in the Public Sector Management Office (DP&C) *Profiles of the Western Australian State Government Workforce* publications between 1996 and 2006.

Figure 3.3 - Total quarterly actual employment levels for all agencies subject to FTE monitoring 31/9/88 to 30/6/97⁶⁹



As indicated in Figure 3.3, after 30 June 1996, monitoring of public sector employment was varied to include all agencies with 90 or less employees; prior to that date these agencies had not been included. The Public Sector Commissioner reported that:

With the implementation of the Human Resource Minimum Obligatory Information Requirements, FTE information is now collected from all Government agencies (excluding universities) and from 30 June 1996, incorporates an additional 1,439 FTEs.⁷⁰

Despite this change in the collection of FTE data, the reported number of Western Australian public sector employees employed in 1990 (in excess of 98,000 FTE) was not matched again until 2006.⁷¹

⁶⁹ Public Sector Management Office (DP&C), *Profile of the Western Australian State Government Workforce, 30 June 1997, 1998*, p 13. Note that after 30 June 1996, monitoring of public sector employment was varied to include all agencies with 90 or less employees; prior to that date these agencies had not been included.

⁷⁰ *ibid.*, note 7.

Table 3.2 - Number of WA Public Sector Employees (Estimated)⁷²

Year	FTE	Head count	Percentage WA Public Sector identifying as Indigenous employees	Estimated Indigenous head count
1996	89,144	105,665	2	2,113
1997	88,485	110,797	1.5	1,662
1998	87,351	110,247	2	1,654
1999	87,886	113,725	2	2,274
2000	87,753	110,592	2	2,212
2001	87,657	107,168	2.1	2,250
2002	88,903	109,164	2.2	2,402
2003	90,351	115,573	2.4	2,774
2004	92,423	118,825	2.4	2,852
2005	97,003	125,310	2.5	3,133
2006	100,907	128,052	2.5	3,201

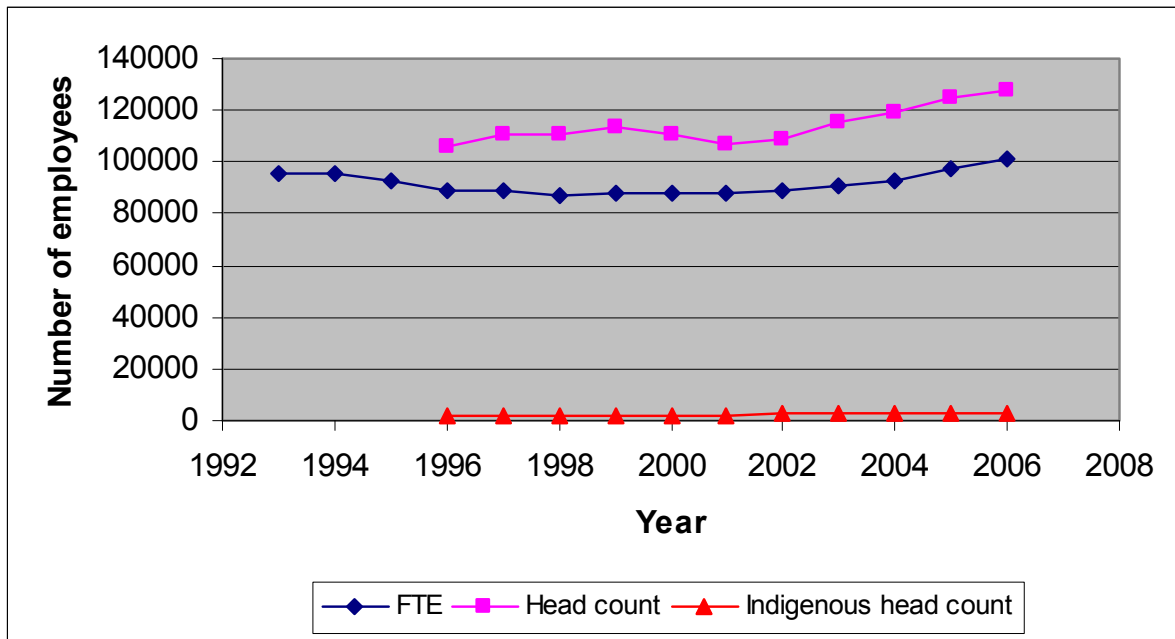
⁷¹ It is of note that ABS 2006 Census data for State government employment differed significantly from the data reported by the Public Sector Management Office. The ABS census reported 91,447 State public sector employees of which 1,770 (1.9 per cent) identified as Indigenous, compared to 128,052 State public sector employees reported by the Public Sector Management Office, of which 2.5 per cent identified as Indigenous. The ABS Census figure may be an underestimate of the number of employees working in the public sector (refer to ABS Data Quality Statement for the Government/non-government employer data item available from the ABS website). Other potential reasons for the significant discrepancies may include:

- a different data collection period (the last week of June 2006 for the Public Sector Management Office data and the week before 8 August 2006 for the ABS data);
- reporting employment of each individual with an agency for the Public Sector Management Office data, while individuals reported hours worked in all jobs for the ABS; and
- given the reliability of the Public Sector Management Office figure for total head count in the State public sector (as it is based on payroll records), the apparently limited sample reported in ABS data (ABS, *2006 Census of Population and Housing, Western Australia, Government/Non-Government Employer Indicator by Sex, 2068.0*; ABS, *2006 Census Community Profile Series, Western Australia, Indigenous Profile, 2007, Tables 27, 31*).

⁷² Data is based on the annual FTE and head count of WA public sector employees. The proportion of Indigenous employees is calculated using the head count reported in the Public Sector Management Office (DP&C) *Profiles of the Western Australian State Government Workforce* publications between 1996 and 2006.

Due to the relatively static size of that workforce until recently, however, that increase of 25 per cent over 10 years has translated into an estimated additional 1,000 Indigenous State public sector employees.

Figure 3.4 - Number of WA Public Sector Employees (Estimated)⁷³



Over the same decade, from 1996 to 2006, the total Indigenous workforce in Western Australia increased from 14,500 to 28,000 - an increase of almost 95 per cent.⁷⁴

⁷³ Data is based on the annual FTE and head count of WA Public Sector employees, and the proportion of Indigenous employees (calculated using the head count), in Public Sector Management Office (DP&C) *Profiles of the Western Australian State Government Workforce* publications between 1996 and 2006.

⁷⁴ ABS, *1996 Census of Population and Housing - Aboriginal and Torres Strait Islander People*, 2034.0, 1996, p 29; ABS, *Labour Force Characteristics of Aboriginal and Torres Strait Islander Australians, 2006 Experimental Estimates from the Labour Force Survey*, 6287.0, 2007.

Finding 31

Due to the relatively static size of the Western Australian public sector workforce until recently, that 25 per cent increase in Indigenous representation over the last decade has translated into an estimated additional 1,000 Indigenous public sector employees.

Over the same decade, from 1996 to 2006, the total Indigenous workforce in Western Australia increased from 14,500 to 28,000 - an increase of almost 95 per cent.

As indicated previously, projections of the ABS, based on the 2001 census, estimated that 3.5 per cent of the State's population in 2006 was Indigenous.⁷⁵ Despite the improvement in representation of Indigenous employees in the WA public sector, there is a continuing gap between State employment of Indigenous people and their representation in the community.

Finding 32

Despite the improvement in representation of Indigenous employees in the Western Australian public sector, there is a continuing and significant gap between State employment of Indigenous people and their representation in the community.

3.3 Community Development Employment Projects

As indicated, the opportunities which were once available for Indigenous Australians through public sector employment at the Commonwealth level is in decline and only increasing marginally at State level.

Recent changes to Community Development Employment Projects (CDEP) may well impact to further reduce these career paths for Indigenous Australians.

CDEP is a Commonwealth program, known colloquially as a 'work for the dole' program, for Indigenous people. The Commonwealth previously described the program as follows:

Community Development Employment Projects are the Commonwealth's largest Indigenous program. They began in 1977 at the request of several remote Communities as an alternative to receiving unemployment benefits ('the dole'). Participation in the CDEP scheme is voluntary.

⁷⁵ ABS, *Australian Social Trends - Data Cube*, 4102.0, 2007, Table 2.5: Population WA Summary, 1996-2006.

*CDEP accounts for around one quarter of Indigenous employment and has grown to encompass over 32,000 participants across Australia in Urban, Rural and Remote areas.*⁷⁶

A discussion paper issued by the Commonwealth in November 2006 proposed to cease funding for CDEP in urban and regional centres, close Indigenous Employment Centres across Australia, and to instead fund enhanced mainstream employment brokerage services from 1 July 2007.⁷⁷ Originally it was proposed that remote Indigenous communities would continue to receive CDEP funding.

With the '*Northern Territory Emergency Response*' by the Commonwealth, it was announced on 23 July 2007 that CDEP:

*in the Northern Territory will be progressively replaced by real jobs, training and mainstream employment programs, complementing the work already in train to lift remote area exemptions.*⁷⁸

The intention is that some 2,000 people '*will be assisted off CDEP into real work*';⁷⁹ although others have estimated that there were some 8,000 CDEP participants in the Northern Territory.⁸⁰

The most recent data available through the Productivity Commission⁸¹ indicates that at least until 2004/05, and therefore prior to these recent changes, a significant proportion of public sector (defined as Commonwealth, State and Local Government) employment of Indigenous Australians was funded through CDEP, particularly in remote areas. In these areas, CDEP accounted for 63.5 per cent of Indigenous employment in the public sector and 47.6 per cent of Indigenous employment in the private sector (see Figure 3.5).⁸²

⁷⁶ CDEP, available at: <http://www.cdep.com.au/> Accessed on 24 November 2006.

⁷⁷ Commonwealth Department of Employment and Workplace Relations, *Indigenous Potential meets Economic Opportunity: Discussion Paper*, November 2006, p 2.

⁷⁸ Commonwealth Minister for Indigenous Affairs, Media Releases, 'Jobs and training for Indigenous people in the NT', 23 July 2007.

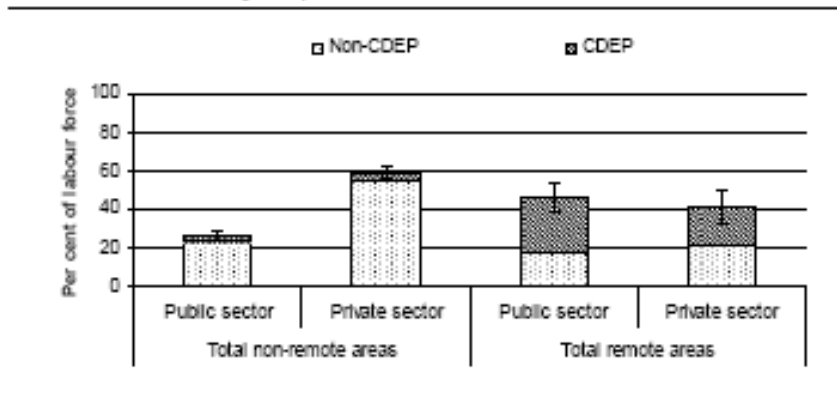
⁷⁹ *ibid.*

⁸⁰ Altman, J, 'Scrapping CDEP is just plain dumb', ABC News Online Available at www.abc.net.au/news/stories/2007/07/26/1988592.htm Accessed on 27 July 2007.

⁸¹ The Productivity Commission was reporting ABS data which defines '*public sector*' to include Commonwealth, State and Local Government employment.

⁸² Steering Committee for the Review of Government Service Provision, *Overcoming Indigenous Disadvantage Key Indicators 2007 Report*, 2007, p 11.3.

Figure 3.5 - Employment by public/private sector, Indigenous people aged 18 to 64 years, 2004-05⁸³



Finding 33

Data available until 2004/05 indicates that a significant proportion of public sector employment of Indigenous Australians (defined to include Commonwealth, State and Local Government employment) was funded through Community Development Employment Projects (CDEP), particularly in remote areas where CDEP accounted for 63.5 per cent of the public sector employment of Indigenous people.

Recent changes to CDEP have the potential to impact markedly on the public sector employment of Indigenous Australians, particularly in remote communities, although data demonstrating the impact of changes to CDEP on public sector employment of Indigenous Australians, if any, is not available.

Finding 34

Recent Commonwealth changes to Community Development Employment Projects (CDEP) have the potential to impact markedly on the public sector employment of Indigenous Australians, particularly in remote communities.

⁸³ Steering Committee for the Review of Government Service Provision, *Overcoming Indigenous Disadvantage Key Indicators 2007 Report*, 2007, Table 11A.1.6.

CHAPTER 4 EQUAL EMPLOYMENT OPPORTUNITY IN THE WA PUBLIC SECTOR

4.1 Current monitoring and evaluation

The Committee is concerned by the lack of opportunities in public employment for Indigenous Western Australians. In this Chapter the Committee examines in more detail the current monitoring and evaluation of equal opportunity in State employment.

4.2 The Director of Equal Opportunity in Public Employment

The Director of Equal Opportunity in Public Employment is a statutory office, established under the *Equal Opportunity Act 1984* (WA), and appointed by the Governor. The Director is located within the Office of Public Sector Standards and is responsible to the Minister for Public Sector Management, currently the Premier.

Amongst other things, the Director's Office assesses public authorities' compliance with the requirements of Part IX of the *Equal Opportunity Act 1984* (WA). The Office of Equal Employment Opportunity analyses data on the public sector on the basis of representation of women and diversity groups, including Indigenous people, and their distribution at all levels of the public sector. Equity is determined on the basis of the representation of each diversity group at all levels of the workforce and through their representation in executive and management positions.⁸⁴ As a result the analysis of equity and diversity objectives by that Office goes beyond the evaluation of basic employment numbers undertaken by the Committee.

The jurisdiction of the Director includes public sector agencies and statutory authorities but also extends to local government and public universities, a total of 266 public authorities which have compliance obligations to the Office of Equal Employment Opportunity. That Office comprises of less than 10 FTE positions.⁸⁵

4.3 Calculating Indigenous representation

(a) 2006/07 data

When the Committee initiated this project, the *2006 Annual Report* of the Director of Equal Opportunity in Public Employment indicated an increase in the proportion of Indigenous Australians in the State public sector from 2 per cent in 1995/96 to 2.5 per cent in 2005/06.⁸⁶

⁸⁴ Director of Equal Opportunity in Public Employment, *2006 Annual Report*, p 29.

⁸⁵ Statement to the Educational and Health Standing Committee from the Director of Equal Opportunity in Public Employment, Office of Equal Employment Opportunity, 21 March 2007, p 1.

⁸⁶ Public Sector Management Office (DP&C), *Profile of the Western Australian State Government Workforce 30 June 1996*; Director of Equal Opportunity in Public Employment, *2006 Annual Report*, p 46.

The more recent figure, from the *2007 Annual Report* released on 2 October 2007, indicates a reduction to 2.3 per cent Indigenous representation in 2006/07.⁸⁷ The Director noted that the:

*Department of Health resurveyed their staff in 2006-07 and obtained a response rate of 38%. This compares to a response rate of 66% for the previous year. This difference accounts for almost all of the decrease in the overall response rate for the public sector and in the number of people identified in this diversity group in 2007.*⁸⁸

The Committee accepts that the results for 2006/07 may be anomalous due to the poor response rate to the Department of Health's diversity survey. However the Committee notes that, instead of increasing to meet Equity and Diversity Plan targets, the overall rate of Indigenous representation in the public sector between 2005/06 and 2006/07 (excluding the Department of Health) remained static.

Finding 35

The Committee accepts that the Office of Equal Employment Opportunity's 2.3 per cent figure for Indigenous representation in the 2006/07 Western Australian public sector profile may be anomalous due to a poor response to the Department of Health's diversity survey.

Irrespective of this, instead of increasing to meet Equity and Diversity Plan targets, the overall rate of Indigenous representation in the public sector between 2005/06 and 2006/07 (excluding the Department of Health) remained static.

(b) Full Time Equivalent positions

Allowing for the different methodologies adopted, and in particular that the Committee survey requested information on FTE while the Office of Equal Employment Opportunity utilises data relating to 'head count' (that is the number of employees irrespective of their hours of employment), the Committee accepts that the 2.5 per cent figure in 2006 is not inconsistent with the Committee's own research of the Indigenous employment level in 2006 which indicated an employment level of 2.17 per cent.⁸⁹

The Director of Equal Opportunity in Public Employment stated that:

⁸⁷ Using the total 'head count', as for calculations included in Table 3.2, 2.3 per cent represents 3,030 Indigenous WA public sector employees in 2006/07.

⁸⁸ Director of Equal Opportunity in Public Employment, *2007 Annual Report*, p 38. Note that the number of people identified as Indigenous is adjusted according to the sample size.

⁸⁹ Other factors which may have contributed to the divergence, as cited by the Director of Equal Opportunity in Public Employment, include different times for data collection and variations in the agencies included in the surveys (Statement to the Educational and Health Standing Committee from the Director of Equal Opportunity in Public Employment, Office of Equal Employment Opportunity, 21 March 2007, p 20).

... if we used FTE we would diminish the status of individuals. It is important to know the number of Indigenous Australians employed in the public sector, not whether they are working full-time or part-time.⁹⁰

Converting the 2005/06 Office of Equal Employment Opportunity survey results, the Director's estimate of Indigenous representation using FTE data was very close to the Committee's data, at 2.04 per cent.⁹¹

Finding 36

Converting the 2005/06 Office of Equal Employment Opportunity diversity survey results, which originally indicated 2.5 per cent Indigenous representation in the Western Australian public sector, the Director's estimate of Indigenous representation using calculations based on Full Time Equivalent (FTE) positions was 2.04 per cent.

This was approximate to the Committee's survey result of 2.17 per cent Indigenous representation in the Western Australian public sector, based on FTE positions.

While the Committee has no issue with wanting to track the number of Indigenous people working in the public sector, the Committee notes that there is potential for a figure based on '*head count*' rather than FTE positions, if used in isolation, to provide an incomplete indication of Indigenous employment in the public sector.

Finding 37

While the Committee has no issue with reporting on the actual number of Indigenous people working in the public sector, whether full or part-time, the Committee notes the potential for a figure based on '*head count*' rather than Full Time Equivalent (FTE) positions, if used in isolation, to provide an incomplete indication of the level of Indigenous employment in the public sector.

The Committee recommends that the publication of equal employment opportunity data be broadened to include reporting of Indigenous status according to human resource records (as

⁹⁰ Statement to the Educational and Health Standing Committee from the Director of Equal Opportunity in Public Employment, Office of Equal Employment Opportunity, 21 March 2007, p 19.

⁹¹ The calculation was made on the basis of attributing 0.5 FTE for each part-time or casual employee included in the head count (*ibid.*, p 20).

voluntarily nominated by employees), based on FTE, similar to that which formed the basis of the Committee's own survey.⁹²

Recommendation 2

The Committee recommends that publication of equal employment opportunity data be broadened to include reporting of Indigenous status according to human resource records (as voluntarily nominated by employees) and based on the number of Full Time Equivalent (FTE) positions, similar to the data which formed the basis of the Committee's own survey.

4.4 Equity and Diversity Plan targets

The Director of Equal Opportunity in Public Employment advises that she has facilitated the development of two Equity and Diversity Plans for the public sector. These plans establish quantifiable objectives in terms of both participation in the public sector workforce (numbers) and distributional equity (equitable representation at different salary levels).⁹³

(a) Setting '*community representation*' as an employment target

According to the Director, the actual targets for diversity group employment are set by the Strategic Employment Reference Group:

*This group was chaired by the Director General of the Department of the Premier and Cabinet and comprised the heads of the Department of Indigenous Affairs, Office of Multicultural Interests, the Disability Services Commission, the Office for Women's Policy, the Equal Opportunity Commission and the Office of Equal Employment Opportunity. The Department of Indigenous Affairs was invited to provide context and recommendations to the Strategic Employment Reference Group. Performance objectives included in the final plan were recommended to the Premier in consideration of objectives in the previous plan, past performance and the perceived need for the sector to progress towards parity with community demographics.*⁹⁴

⁹² The Director of Equal Opportunity in Public Employment indicated in evidence before the Committee that Indigenous FTE data is available through the MOIR (Minimum Obligatory Information Reporting) data base, kept by the Department of the Premier and Cabinet (DP&C) (Ms Noela Taylor, Director of Equal Opportunity in Public Employment, Office of Equal Employment Opportunity, *Transcript of Evidence*, 21 March 2007, p 12). However, the data published in the annual *Profile of the Western Australian State Government Workforce* by the Public Sector Management Office (DP&C) is not the MOIR data but the data published by the Director's office, and is therefore based on '*head count*'.

⁹³ Statement to the Educational and Health Standing Committee from the Director of Equal Opportunity in Public Employment, Office of Equal Employment Opportunity, 21 March 2007, p 12.

⁹⁴ *ibid.*, p 17.

Consistently with the description of aiming towards ‘*parity with community demographics*’, the employment targets are set out in plans which include data supposed to be indicative of ‘*community representation*’ of the various diversity groups.⁹⁵ As indicated previously, community representation is not the same, and in particular for Indigenous people, is considerably higher than workforce participation, in part because of the large youth demographic of the Indigenous population (refer to Table 4.1).⁹⁶

Table 4.1 Population data for Western Australia, 2006

	Indigenous Population		Total Population	
	%	No. ('000)	%	No. ('000)
Estimated total population⁹⁷	3.5%	72.2	100%	2,051
Civilian population aged 15 and over⁹⁸	64.1%	46.3	79.1%	1,645.6
Population 15 yrs and over - Not in the labour force⁹⁹	39.7%	18.4	33.19%	546.1
Population 15 yrs and over - In the labour force:¹⁰⁰	60.3%	27.9	66.8%	1,099.5
▪ Population 15 yrs and over - Unemployed ¹⁰¹ (excludes CDEP) ¹⁰²	13.3%	3.7	3.5%	38.5
▪ Population 15 yrs and over - In employment ¹⁰³	86.7%	24.2	96.5%	1061.0

⁹⁵ As discussed in more detail in Chapter 4.5, however, this is not in fact the case and the figures appear to be significantly lower, particularly for the disability employment target.

⁹⁶ The most recent estimate for the Indigenous labour force in Western Australia, in 2006, was 27,900 or 2.5 per cent of the total workforce (ABS, *Labour Force Characteristics of Aboriginal and Torres Strait Islander Australians, 2006 Experimental Estimates from the Labour Force Survey*, 6287.0, 2007; ABS, *Labour Force*, 6202.0, August 2006, p 17).

⁹⁷ ABS, *Australian Social Trends, Data Cube*, 4102.0, 2007, ‘Table 2.5 Population, WA Summary, 1996-2006’. Note that, to maintain consistency, the more recent Indigenous population data (based on the 2006 census) has not been used.

⁹⁸ ABS, *Labour Force*, 6202.0, August 2006, p 17; ABS, *2006 Labour Force Characteristics of Aboriginal and Torres Strait Islander Australians, Experimental Estimates from the Labour Force Survey... 2002 to 2006*, 6287.0, 2007.

⁹⁹ *ibid.*

¹⁰⁰ *ibid.*

¹⁰¹ *ibid.*

¹⁰² ABS data from 2001 indicated almost one-third of Indigenous employment in WA was through CDEP (ABS *2001 Census of Population and Housing Western Australia, Indigenous Status by Labour Force Status and Industry Sector... Count for persons 15 years and over*).

It is of note that if Indigenous employment targets were set according to the workforce participation rate, the WA public sector would have achieved that target in 2005/06 (refer to Table 4.2).

Table 4.2 Labour force data for Western Australia, 2006

	Indigenous Population		Total Population	
	%	No. ('000)	%	No. ('000)
Labour Force ¹⁰⁴	2.5%	27.9	100%	1,099.5
In Public Sector (Clth) employment ¹⁰⁵	2%	0.4	100%	19.8
In Public Sector (State) employment ¹⁰⁶	2.5%	3.4	100%	137.2
In Public Sector (Local Government) employment ¹⁰⁷	2.5%	0.5	100%	18.2

¹⁰³ ABS, *Labour Force*, 6202.0, August 2006, p 17; ABS, *2006 Labour Force Characteristics of Aboriginal and Torres Strait Islander Australians, Experimental Estimates from the Labour Force Survey... 2002 to 2006*, 6287.0, 2007.

¹⁰⁴ *ibid.*

¹⁰⁵ Commonwealth Australian Public Service Commission, *State of the Service 2005-06 - at a Glance*, 2006; ABS, *Wage and Salary Earners, Public Sector, Australia*, 6248.0.55.001, 2007, Table 2 'Wage and Salary Earners, Commonwealth Government, States and Territories'.

¹⁰⁶ Director of Equal Opportunity in Public Employment, *2006 Annual Report*, p 46; ABS, *Wage and Salary Earners, Public Sector, Australia*, 6248.0.55.001, 2007, Table 3 'Wage and Salary Earners, State Government, States and Territories'. Please note the variation in total and Indigenous State public sector numbers compared to the Office of Equal Employment Opportunity data. It appears that the ABS includes casual employees. The figure for Indigenous employment was calculated by using the Office of Equal Employment Opportunity 2.5 per cent Indigenous employment rate applied to the ABS total figure for State public sector employment.

¹⁰⁷ Director of Equal Opportunity in Public Employment, *2007 Annual Report*, p 38; ABS, *Wage and Salary Earners, Public Sector, Australia*, 6248.0.55.001, 2007, Table 4 'Wage and Salary Earners, Local Government, States and Territories'. Note that the recent ABS data indicated a far higher Indigenous employment rate by Local Governments in Western Australia, of approximately 10 per cent (ABS, *2006 Census of Population and Housing, Western Australia, Government/Non-Government Employer Indicator by Sex*, 2068.0; ABS, *2006 Census Community Profile Series, Western Australia, Indigenous Profile*, 2007, Table 31).

Finding 38

If Indigenous employment targets were set according to the workforce participation rate, the Western Australian public sector would have achieved that target in 2005/06.

However, the Committee also notes that setting employment targets for Indigenous people according to current workforce participation rates ignores the potential that existing discrimination in workplace practices and a history of disadvantage may contribute to current low workforce participation rates for Indigenous people. It also ignores the potential for State employment to be a mechanism to increase workforce participation rates by Indigenous people.

Finding 39

Setting employment targets for Indigenous people according to current workforce participation rates, however, ignores the potential for State employment to be a mechanism to increase workforce participation rates by Indigenous people.

It is also the case that a legitimate consideration in determining workforce profile is not simply the profile of the available labour force, but an agency's client profile. This is accepted by the Office of Equal Employment Opportunity and, in assessing the Indigenous employment rate for specific authorities, reference is made at times to consideration of the client group of the authority. The 2006-2009 Equity and Diversity Plan states:

Where equal opportunity groups have a higher level of representation in client communities than exists in the general community, it is expected that agencies will strive to achieve levels of representation appropriate to their client profile that are above the sector-wide benchmark.¹⁰⁸

While client profile can be relevant to establishing workforce profile, the Committee notes that there are difficulties associated with setting targets according to client profile for those authorities which are not or rarely utilised by Indigenous clients. To set employment targets for Indigenous people solely according to agencies' client profile ignores the potential that an existing lack of Indigenous employees or appropriate service delivery could contribute to the under-utilisation of services by Indigenous people.

¹⁰⁸

Government of Western Australia, *Equity and Diversity Plan for the Public Sector Workforce 2006-2009*, p 6.

Finding 40

While client profile can be relevant to establishing workforce profile, there are difficulties associated with setting employment targets for Indigenous people according to client profile for those agencies which are not or are rarely utilised by Indigenous clients.

To set employment targets for Indigenous people solely according to an agency's client profile ignores the potential that an existing lack of Indigenous employees or appropriate service delivery could contribute to the under-utilisation of services by Indigenous people.

The Committee notes that the approach currently articulated in the Equity and Diversity Plan for the Public Sector Workforce requiring that public sector employment targets should, as a minimum, be based on 'community representation' (3.2 per cent) effectively requires the State to employ Indigenous people at a rate higher than their workforce participation rate (2.5 per cent).

Finding 41

The Committee notes that the approach currently articulated in the *Equity and Diversity Plan for the Public Sector Workforce* requiring that public sector employment targets should, as a minimum, be based on 'community representation' (3.2 per cent) effectively requires the State to employ Indigenous people at a rate higher than their workforce participation rate (2.5 per cent).

The Committee notes that Equal Opportunity legislation provides capacity to implement 'measures intended to achieve equality' and makes allowances for 'special needs':

51. Measures intended to achieve equality

Nothing ... renders it unlawful to do an act a purpose of which is:

(a) to ensure that persons of a particular race have equal opportunities with other persons in circumstances in relation to which provision is made by this Act; or

(b) to afford persons of a particular race access to facilities, services or opportunities to meet their special needs in relation to employment, education, training or welfare, or any ancillary benefits.

The Committee believes that the approach currently articulated in the *Equity and Diversity Plan for the Public Sector Workforce* requiring that public sector employment targets should, as a minimum, be based on 'community representation' is appropriate. The approach has the potential

to address issues associated with under-participation in the workforce, under-utilisation of services and historic disadvantage of Indigenous people.

Finding 42

The Committee believes that the approach currently articulated in the *Equity and Diversity Plan for the Public Sector Workforce* requiring that public sector employment targets should, as a minimum, be based on 'community representation' is appropriate. The approach has the potential to address issues associated with under-participation in the workforce, under-utilisation of services and the historic disadvantage of Indigenous people.

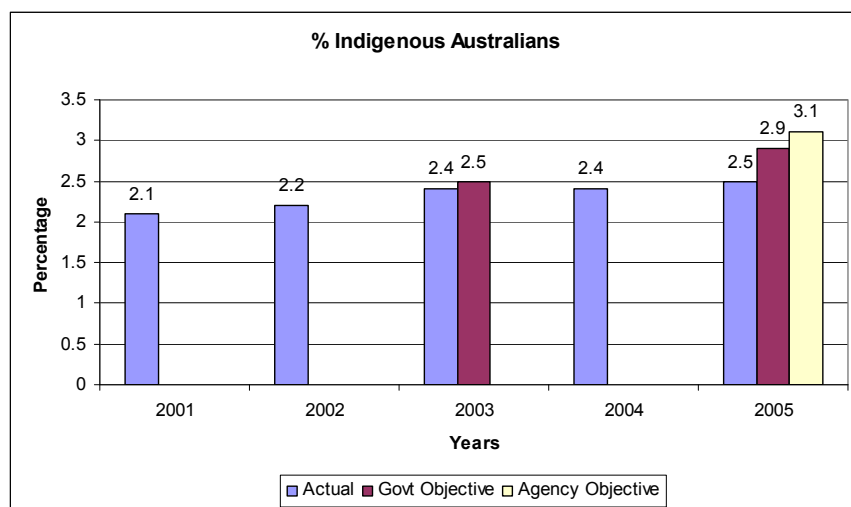
(b) Achieving 'community representation' targets

It is of note that public sector employment of diversity groups so as to meet community representation levels is a long-term, and not current, target in the Equity and Diversity Plans. The Director of Equal Opportunity in Public Employment describes existing targets as 'incremental' and based on:

where we were currently in the public sector and what [we] could realistically expect over a four-year period. The objectives are being increased from the first plan but in some cases they are still not what the community representation is.¹⁰⁹

The following Figure 4.1 and Table 4.3 include the targets as set in the Equity and Diversity Plans for Indigenous representation in the public sector between 2001 and 2009.

Figure 4.1 - Indigenous workforce participation in the WA Public Sector 2001-2005



¹⁰⁹

Ms Noela Taylor, Director of Equal Opportunity in Public Employment, Office of Equal Employment Opportunity, *Transcript of Evidence*, 21 March 2007, p 7.

Table 4.3 Indigenous workforce participation objectives for the WA Public Sector 2006-2009

	Percentage representation					
	Community Representation	2005 Actual	2006	2007	2008	2009
Women in 3						
▪ SES		23.9	25.5	27	28.5	30
▪ Tier 1		23	25	26	28	30
▪ Tier 2		29	32	35	38	41
▪ Tier 3		33	36	39	42	45
People from culturally diverse backgrounds	17	8	9.25	10.5	11.75	13
Indigenous Australians	3.2	2.5	2.6	2.8	3.0	3.2
People with Disabilities	4	1.7	3.6	3.6	3.6	3.7
Youth (17-24)	11.5	5.7	6.5	7	7.5	8

It is of concern to the Committee that the level of representation of Indigenous employees in the public sector continues to fall below the 2.9 per cent target originally set for 2005 by the State government's previous *Equity and Diversity Plan for the Public Sector Workforce 2001-2005*.

Finding 43

The level of representation of Indigenous employees in the public sector continues to fall below the 2.9 per cent target originally set for 2005 in the State government's previous *Equity and Diversity Plan for the Public Sector Workforce 2001-2005*.

It is of even more concern to the Committee that following the failure to meet its 2.9 per cent target for Indigenous employment in 2005, the State government's next *Equity and Diversity Plan for Public Sector Workforce*, for 2006 to 2009, revised the targets for the public sector workforce participation by Indigenous Western Australians to 2.6 and 2.9 per cent for 2006 and 2007 respectively, only rising to 3.2 per cent by 2009.

Finding 44

The current State government *Equity and Diversity Plan for the Public Sector Workforce 2006-2009* revised the targets for the public sector workforce participation by Indigenous Western Australians downwards, to 2.6 and 2.9 per cent for 2006 and 2007 respectively, only rising to 3.2 per cent by 2009.

In her evidence before the Committee, the Director of Equal Opportunity in Public Employment identified the following as one of the critical factors which characterised those programs which were successful in achieving equity and diversity outcomes:

[a] *critical success factor is to recognize the positive symbolic power of gestures of reconciliation, acknowledgement and commitment and the negative symbolic power of failures to acknowledge where such acknowledgement would be reasonably expected from an Indigenous community.*¹¹⁰

Although the Director was referring to a different issue, the Committee has concerns about the 'symbolic power' of reducing diversity targets when these are not met.

The Committee recognises that there is no benefit in setting unachievable targets. It remains concerned, however, that the reduction in the targets for the public sector workforce participation by Indigenous Western Australians in the current *Equity and Diversity Plan for the Public Sector Workforce*, following the public sector's failure to meet its previous targets, implies a tolerance for non-achievement in this area.

Finding 45

The Committee is concerned that the reduction in the targets for the public sector workforce participation by Indigenous Western Australians in the current *Equity and Diversity Plan for the Public Sector Workforce*, following the public sector's failure to meet its previous targets, implies a tolerance for non-achievement in this area.

The issue of compliance with Equity and Diversity targets is examined in more detail in Chapter 4.8.

¹¹⁰ Statement to the Educational and Health Standing Committee from the Director of Equal Opportunity in Public Employment, Office of Equal Employment Opportunity, 21 March 2007, p 5.

4.5 Estimating community representation

As indicated in Tables 4.3 (at p. 48) and 4.4 (below), the *Equity and Diversity Plans* set targets for Indigenous and other diversity group representation in the public sector workforce in the context of that group's 'community representation'.

Table 4.4 - Equity & Diversity Plan 2001-2005 workforce participation objectives

Performance Objectives	Community	Public Sector Priority Areas					
	1996 Census	2001 Actual		2003 Objective		2005 Objective	
		Workforce %	Equity Index	Workforce %	Equity Index	Workforce %	Equity Index
Indigenous Australians	3%	2.1%	29	2.5%	34	2.9%	39
People with Disabilities	4%	2.1%	106	2.6%	100	3.6%	100
People from Culturally Diverse Backgrounds	12%	4.3%	120	5.5%	100	6.7%	100
Youth (<25 years)	11%	4.9%	na	5.2%	na	5.5%	na

The figure used for community representation for the *Equity and Diversity Plan for the Public Sector Workforce 2001-2005* was based on the 1996 census; the figure used for the current *Equity and Diversity Plan for the Public Sector Workforce 2006-2009* is based on the 2001 census. These figures, respectively, are 3.0 and 3.2 per cent.

As indicated previously, however, the ABS projections using the 2001 census indicated that, since at least 2001, 3.5 per cent of the State's population was Indigenous.¹¹¹ In addition, the Committee notes that funding from the Commonwealth for 'Indigenous disadvantage' as paid to the State in 2006 used 3.6 per cent as the estimate of the Indigenous population of WA.¹¹² Recently released estimates from the ABS based on 2006 census results, indicate that the proportion of the State's population which is Indigenous in 2006 was 3.8 per cent.¹¹³

¹¹¹ ABS, *Australian Social Trends - Data Cube*, 4102.0, Table 2.5: Population WA Summary - 2006.

¹¹² Commonwealth Grants Commission, *Relative Fiscal Capacities of the States 2006*, p 24.

¹¹³ ABS, *Population Distribution, Aboriginal and Torres Strait Islander Australians, 2006*, 4705.0, August 2007, Table 1.

Finding 46

The current State government *Equity and Diversity Plan for the Public Sector Workforce 2006-2009* uses a figure of 3.2 per cent as 'community representation' of Indigenous people in this State.

However, Australian Bureau of Statistics (ABS) projections indicate that, since at least 2001, 3.5 per cent of the State's population was Indigenous.

In addition, funding from the Commonwealth for 'Indigenous disadvantage' as paid to the State in 2006 used 3.6 per cent as the estimate of the Indigenous population of Western Australia.

Recently released estimates from the ABS, based on 2006 census results, indicate that the proportion of the State's population which was Indigenous in 2006 was 3.8 per cent.

The Director of Equal Opportunity in Public Employment advises:

The level of Indigenous Representation in the community overall... is based on the ABS (2001 Census pub.) Population Distribution, Indigenous Australians, actual place of residence data (ABS Cat. 4705.0).

The percentage representation of 3.2%, based on actual place of residence, was chosen over ABS estimates/projections of 3.6%, as projections take into account the estimated level of non response. The individual employee data collected by the OEEO [Office of Equal Employment Opportunity] is based on self identification from actual responses to the Office's recommended diversity questionnaire and does not take into account non response.

It is therefore more appropriate for the Office to use ABS actual place of residence data as a comparison.

The Office of EEO recognises that because of the reliance on self reporting of diversity status the percentage representation reported is likely to be an under representation.¹¹⁴

The Committee accepts that the figure for community representation of Indigenous people used for the purposes of setting targets for equal opportunity does not include an estimated level of non-response because the data collected on its recommended diversity survey does not take into account non-response. It is of note, however, that estimated resident population, as opposed to the measure used by the Office of Equal Employment Opportunity, is:

the official measure of population in Australia and the state and territories. Amongst other purposes, these estimates are used for determining the number of seats on the House of

¹¹⁴ Statement to the Educational and Health Standing Committee from the Director of Equal Opportunity in Public Employment Office of Equal Employment Opportunity, 21 March 2007, pp 17, 18.

*Representatives for each state and Territory, and for the allocation of government funding.*¹¹⁵

It is also the case that the data used by the Office of Equal Employment Opportunity for the purposes of developing Equity and Diversity Plans is far from precise. As indicated the figure used does not distinguish between part-time and full time employment (see Findings 36, 37 and Recommendation 2). That figure is also:

- based on census data collected some years prior to the establishment of Equity and Diversity Plan targets; and
- not adjusted to allow for projected population changes over the four year term of the Equity and Diversity Plans.

As a result of these factors, the figure of 3.2 per cent used for community representation of the Indigenous population until 2009 already significantly underestimates the size of that population.¹¹⁶

Finding 47

The level of Indigenous community representation used by the Office of Equal Employment Opportunity for the purposes of developing Equity and Diversity Plans is reduced by the election to utilise:

- actual census results rather than estimates which are the official measure of population in Australia, used for determining the allocation of government funding amongst other things;
- actual census data which is some years out of date rather than official projections;
- an unadjusted figure throughout the four year term of the Equity and Diversity Plans.

If Indigenous community representation is to be used for the purposes of developing Equity and Diversity Plan employment targets the figure should be based on '*estimated resident population*'. This is the official measure of population in Australia and the states and territories. That figure

¹¹⁵ ABS, *Population Distribution, Aboriginal and Torres Strait Islander Australians, 2006*, 4705.0, p 76.

¹¹⁶ The Committee notes that the figures used in relation to '*community representation*' of other diversity groups - for disabled people and culturally and linguistically diverse (CALD) groups - are not accurate either. The figure for disabled people - at four per cent - corresponds to the ABS 1998 data on disability, but only those with '*moderate core activity restriction*' and excluding both those with severe and mild restrictions (ABS, *Disability, Aging and Carers, Summary of Findings*, 4430.0, 1998, p 16). The figure for CALD community representation, at 17 per cent, corresponds to the ABS 2001 Census data for Western Australia, Birthplace for non-English speaking countries, including '*not stated*' (ABS, 2001 Census of Population and Housing, 20680-Country of Birth by Age by Sex - Western Australia).

should also be adjusted annually to allow for projected population changes. If the Indigenous employment targets for the WA public sector are to be based on a different measure, the basis should be clearly articulated and justified.

Recommendation 3

The Committee recommends that if Indigenous community representation is to be used for the purposes of developing Equity and Diversity Plan employment targets the figure should be based on ‘*estimated resident population*’. This is the official measure of population in Australia and the states and territories. That figure should also be adjusted annually to allow for projected population changes.

If the Indigenous employment targets for the Western Australian public sector are to be based on a different measure, the basis should be clearly articulated and justified.

4.6 Effectiveness

The evidence of the Director of Equal Opportunity in Public Employment on the issue of evaluating the effectiveness of equity and diversity in public employment was that:

In considering the current situation and general priority given to Equity and Diversity matters in the administration of public authorities I would like to use a simple model developed by Trevor Wilson of Diversity at Work International to evaluate the status quo with respect to equity and diversity in Employment.

Wilson’s Equity Continuum uses a scale of 0 to 5 to rate organizations on their overall approach to issues of equity in the workplace. Organisations are positioned on the scale based on an assessment of their underlying paradigm in the organisation and on their perceived motivation to address equity.

The rating descriptors are:

The Zeros

These organisations think that there are ‘No problems here’ and might even think they are ‘fives’. They refuse to acknowledge that inequity exists in their organizations and they are not motivated to address equity issues.

The Ones

The driving force for Ones is the requirement for compliance with external employment equity and affirmative action legislation. This might be to avoid costs associated with law suits or, in a public authority context, to simply meet basic requirements to have an EEO Plan.

The Twos

Twos are starting to move beyond compliance and see equity as important but the driving force is the belief that addressing historically disadvantaged groups is the right thing to do.

The Threes

Three are engaging with, or at least recognise the business case for diversity. The driving force is about harvesting the business benefits that result from an equitable and inclusive workplace.

The Fours

Fours are about mainstreaming and integrated diversity. For these organisations, the driving force is to embed diversity as a core organizational value that is fully integrated and sustainable in the culture and business practices

The Fives

Fives are fully inclusive and equitable organizations. The driving force for a 'five' is about leveraging equity with internal and external stakeholders to be recognized as leaders.

In my opinion there are possibly only three public sector agencies that would rate as 'fours' or 'fives' (Department of Indigenous Affairs, Department for Community Development and the Department of Culture and the Arts) and probably fewer than 15 that would rate above a 'two'.

This is not to say that no progress has been made in the public sector in twenty years of Equal Opportunity Legislation in Western Australia. In that time public sector agencies have significantly reduced the incidence of harassment and direct discrimination, the incidence of unwelcome comments of a sexist or racist nature. Most agencies would report a zero or close to zero tolerance of overtly unacceptable conduct and behaviour.

What is yet to be broadly achieved is a deeper appreciation of how employment diversity can be used productively to improve business and social outcomes. What also needs to be improved is the level of tangible commitment to achieving this amid competing priorities and the short term demands on public administrators.¹¹⁷

The Committee recognises that the reduction in the incidence of harassment and direct discrimination, the incidence of unwelcome comments of a sexist or racist nature, in public sector authorities over the 20 years of Equal Opportunity legislation in Western Australia is an important achievement is a significant achievement.

117

Statement to the Educational and Health Standing Committee from the Director of Equal Opportunity in Public Employment, Office of Equal Employment Opportunity, 21 March 2007, pp 2, 3.

Finding 48

The Committee recognises that the significant reduction in the incidence of harassment and direct discrimination, the incidence of unwelcome comments of a sexist or racist nature, in public sector authorities over the 20 years of Equal Opportunity legislation in Western Australia is an important achievement.

However, on the basis of the evidence available to it as a result of conducting its survey, the Committee also agrees with the assessment of the Director of Equal Opportunity in Public Employment that very few public authorities have achieved ‘*a deeper appreciation of how employment diversity can be used productively to improve business and social outcomes*’.¹¹⁸

The Committee also recognises the importance of what was referred to by the Director of Equal Opportunity in Public Employment as the number of public authorities achieving significant successes beyond improved employment outcomes, to:

build community relationships and foster improved engagement with Indigenous communities. Such programs are more likely to result in sustainable improvements in representation as community trust and community interest in organisations improves. Goldcorp have proven this to become an Indigenous employer of choice and other examples that I am aware of include Tourism and at the Art Gallery (Private sector partnerships), the Museum (partnering in developing major permanent exhibitions) and in the Department for Culture and the Arts (ArtsWA’s Indigenous Arts panel).¹¹⁹

Another example is the work undertaken by the Aboriginal Economic Development Division of the Department of Industry and Resources. The Division is described as follows:

The State Government is committed to assisting Indigenous people to achieve increased economic independence by building on an already impressive record of endeavour and success in the establishment and operation of business enterprises

Aboriginal Economic Development (AED), a division of the Department of Industry and Resources, is part of this commitment.

AED’s mission is to increase the economic independence of Aboriginal people by supporting the establishment and development of sustainable economic development.

AED’s role is to:

- *Encourage and respond to indigenous economic development strategies*

¹¹⁸ Statement to the Educational and Health Standing Committee from the Director of Equal Opportunity in Public Employment, Office of Equal Employment Opportunity, 21 March 2007, p 3.

¹¹⁹ *ibid.*, p 6.

- *Identify opportunities for indigenous businesses*
- *Assist indigenous people to develop enterprises*
- *Initiate strategies for indigenous economic development*

The range of initiatives and the variety of assistance for Indigenous economic developments are outlined in the Aboriginal Economic Development newsletters.¹²⁰

The Committee also notes that each of the authorities achieving these significant outcomes has an Indigenous employment rate below the level of community representation.

Finding 49

The Committee recognises that a number of public authorities are achieving significant successes beyond improved employment outcomes, to build community relationships, to foster improved engagement with Indigenous communities and to assist Indigenous people to achieve increased economic independence through the establishment and operation of business enterprises.

The Committee also notes, however, that each of the authorities achieving these significant outcomes has an Indigenous employment rate below the level of community representation.

4.7 Merit meets diversity

The current *Public Sector Standards in Human Resource Management* includes the following standard:

Figure 4.2 - Public Sector Recruitment, Selection and Appointment Standard¹²¹

Recruitment, Selection and Appointment Standard

Outcome

The most suitable and available people are selected and appointed.

¹²⁰ Available at: www.doir.wa.gov.au/businessandindustry/B6426295C8AA4D55BC922068A650D8D7.asp
 Accessed on 20 November 2007.

¹²¹ Office of the Public Sector Standards Commissioner, *Public Sector Standards in Human Resource Management*, 2001, p 5.

Standard

The minimum standard of merit, equity and probity is met for recruitment, selection and appointment if:

- A proper assessment matches a candidate's skills, knowledge and abilities with the work-related requirements of the job and the outcomes sought by the public sector body, which may include diversity.
- The process is open, competitive and free of bias, unlawful discrimination, nepotism or patronage.
- Decisions are transparent and capable of review.

In explaining 'where merit and equity meet', the Office of the Public Sector Standards Commissioner advises:

Public sector agencies can apply the principles of human resource management emphasised in the Recruitment, Selection and Appointment (RSA) Standard to encourage individuals or groups which may be under-represented in the public sector workforce to apply and compete for vacancies.

You may be surprised to know that the standards are not process prescriptive and are based upon a high-level principles approach. The standards encourage greater flexibility for agencies to better balance their outcomes with employee needs. This flexibility also means the standards can be interpreted to allow more innovative recruitment practices—while still upholding the principles of merit, equity and probity.

The Recruitment, Selection and Appointment Standard states, in part, that:

The minimum standard of merit, equity and probity is met for recruitment, selection and appointment if "A proper assessment matches a candidate's skills, knowledge and abilities with the work-related requirements of the job and the outcomes sought by the public sector body, which may include diversity"

One of the outcomes sought by using the RSA standard is a workforce able to deliver services to diverse customers and which is representative of the community at all levels of employment. This means that the standard provides for diversity to be taken into account in making a final selection decision, once the merit of all applicants has been assessed. Agency outcomes that are to be included in final selection decisions should be identified prior to the selection process and be supported in organisational policies and plans.

This will not mean that the final selection will be based on diversity alone. The merit of all applicants must be assessed according to the work-related requirements of the job. Once the suitability of applicants has been determined through their respective merit, the agency's diversity needs could be used by an agency to assist in the final appointment decision. All decisions must be capable of review, and be judged as reasonable.

The following illustrates how a public sector agency could advertise and use the Recruitment, Selection and Appointment Standard to facilitate an innovative approach to recruitment:

The Department has identified People with Disabilities as a diversity group that is under representative in our workforce. We are committed to providing a work environment that is equitable, inclusive and representative of the diverse communities we operate in. For this reason, the Department has decided to specifically target people with a disability to apply and compete for this vacancy.¹²²

The Public Sector Recruitment, Selection and Appointment Standard and its application in relation to merit and diversity as currently formulated by the Office of the Public Sector Standards Commissioner are discretionary.

Finding 50

The minimum standard of merit, equity and probity for recruitment, selection and appointment in the Western Australian public sector is met if:

A proper assessment matches a candidate's skills, knowledge and abilities with the work-related requirements of the job and the outcomes sought by the public sector body, which may include diversity.

The Office of the Public Sector Standards Commissioner advises:

Public sector agencies can apply the principles of human resource management emphasised in the Recruitment, Selection and Appointment (RSA) Standard to encourage individuals or groups which may be under-represented in the public sector workforce to apply and compete for vacancies.

As a result the assessment and application of considerations of diversity under the Public Sector Recruitment, Selection and Appointment Standard is discretionary.

As indicated previously a number of the respondents to the Committee survey that had no initiatives to attract or retain Indigenous staff responded that their selection of staff '*is based purely on merit*'. The implication was that workplace diversity initiatives were viewed as being inconsistent with merit selection.

The evidence of the Director of Equal Opportunity in Public Employment was that the perception of '*merit*' was '*possibly the biggest barrier to improving employment outcomes for Indigenous people*'. Ms Taylor advised:

¹²² Office of the Public Sector Standards Commissioner, *Standards, Ethics & Equity Bulletin*, Issue 1, May 2006, Available at: www.opssc.wa.gov.au/publications/seebulletin/06/may/article3.htm Accessed on 8 October 2007.

*Appropriate recognition and acknowledgement of skills goes to the heart of how the public sector perceives and constructs its notions of merit. Despite what agencies seem to think, the Principles of Human Resource Management and the Public Sector Standards in Human Resource Management that govern human resource practice in the sector incorporate diversity as one dimension of merit. The Standards encourage agencies to consider agency diversity requirements in assessing a candidate's skills match to a position.*¹²³

It is evident from the Director's evidence and the responses to the Committee's survey that the merit in workplace diversity is not recognised broadly in the public sector.

4.8 Compliance

The key obligations imposed on public authorities under Part IX of the *Equal Opportunity Act 1984* (WA) are formulated in section 145 which states:

145. Preparation and implementation of management plans

(1) Each authority shall prepare and implement an equal opportunity management plan in order to achieve the objects of this Part.

(2) The management plan of an authority shall include provisions relating to —

(a) the devising of policies and programmes by which the objects of this Part are to be achieved;

(b) the communication of those policies and programmes to persons within the authority;

(c) the collection and recording of appropriate information;

(d) the review of personnel practices within the authority (including recruitment techniques, selection criteria, training and staff development programmes, promotion and transfer policies and patterns, and conditions of service) with a view to the identification of any discriminatory practices;

(e) the setting of goals or targets, where these may reasonably be determined, against which the success of the management plan in achieving the objects of this Part may be assessed;

(f) the means, other than those referred to in paragraph (e), of evaluating the policies and programmes referred to in paragraph (a);

(g) the revision and amendment of the management plan; and

¹²³

Statement to the Educational and Health Standing Committee from the Director of Equal Opportunity in Public Employment, Office of Equal Employment Opportunity, 21 March 2007, p 7.

(h) the appointment of persons within the authority to implement the provisions referred to in paragraphs (a) to (g).

The objects of that Part of the Act, which are to be achieved through the preparation and implementation of equal employment opportunity management plans, have already been briefly referred to in Chapter 4.2. In detail, these objects are:

140. Objects of Part IX

The objects of this Part are:

(a) to eliminate and ensure the absence of discrimination in employment on the ground of sex, marital status, pregnancy, family responsibility or family status, sexual orientation, race, religious or political conviction, impairment or age;

(aa) to eliminate and ensure the absence of discrimination in employment against gender reassigned persons on gender history grounds; and

(b) to promote equal employment opportunity for all persons,

in the authorities to which this Part applies.

The Committee raised concerns about non-compliance with Equity and Diversity targets by public authorities and the absence of any initiatives to increase or retain Indigenous staff. The Director of Equal Opportunity in Public Employment advised as follows:

The Act requires them to have an EEO management plan in place, but it does not require the plans to specifically address indigenous employment issues. The need to do that is covered in the equity and diversity plan, statement of commitment and some of those other reports I referred to before. The fact that they do not have specific indigenous employment related strategies in their plans is not in contravention of the legislation. All agencies were required to update their existing EEO management plans by December last year and send them in. We are in the process of assessing all of them. ... The fact that some of them do not [specifically address indigenous employment issues] is not in contravention of the legislation.

...

*That has been our legal advice.*¹²⁴

In subsequent correspondence to the Committee, the Director elaborated that the legal advice received was verbal advice from a solicitor seconded to the Office of Equal Employment Opportunity. The Director advised:

The essence of the legal advice was that section 145(2) of the Equal Opportunity Act 1984 (EO Act) is the primary section of the EO Act that specifies the types of provisions that

¹²⁴ Ms Noela Taylor, Director of Equal Opportunity in Public Employment, Office of Equal Employment Opportunity, *Transcript of Evidence*, 21 March 2007, p 5.

should be included in EO management plans. However, the legislation is not sufficiently detailed or specific to render failure to include strategies targeting indigenous employment a breach of the EO Act.

The Committee is concerned that the existing Equal Opportunity legislation in this State does not appear to require public authorities to develop specific Indigenous employment related strategies or to meet employment targets.

Finding 51

The Committee is concerned that the existing Equal Opportunity legislation in this State does not appear to require public authorities to develop specific Indigenous employment related strategies or to meet employment targets.

The Committee was advised by the Director as follows:

We take the approach when dealing with individual agencies that, from time to time, agencies will have different priorities. One year they might want to focus on employing more youth. Another year they might need to be addressing women in senior management or employing more people with disabilities. It is a difficult issue. Ideally, we would like to see plans covering every single diversity group. In reality, that is not how it happened in the past.

The Director also advised that other measures had been implemented relating to Indigenous employment. These measures resulted in *'the inclusion of Indigenous employment objectives in CEO Performance agreements for 2006-2007'*.¹²⁵ It also included the monitoring and publication of projected individual authority targets as advised in equal employment opportunity management plans, for those authorities with over 100 employees, and the Director advised:

Some agencies will have in their plans specific strategies on how they will reach that target. Others at this stage have not been as clear on that process. From my perspective, for monitoring, we will report underperformance to the Premier. In my annual report I include a list of each agency's performance, and that is in a public document. I did that for the first time last year because I too think they should be held accountable in the public forum not just through information we provide within government.

The Committee commends the Director of Equal Opportunity in Public Employment for the recent implementation of two significant initiatives to ensure that public authorities seriously address Indigenous employment targets:

¹²⁵ Statement from the Director of Equal Opportunity in Public Employment, Office of Equal Employment Opportunity, 21 March 2007, p 12.

- the inclusion of Indigenous employment objectives in Chief Executive Officer (CEO) Performance agreements for 2006/07; and
- the listing of each public sector agency's performance in relation to diversity targets (for agencies with more than 100 employees) in the Director's Annual Reports for 2005/06 and 2006/07.

Finding 52

The Committee commends the Director of Equal Opportunity in Public Employment for the recent implementation of two significant initiatives to ensure that the public sector seriously address Indigenous employment targets:

- the inclusion of Indigenous employment objectives in Chief Executive Officer (CEO) Performance agreements for 2006/07; and
- the listing of each public sector agency's performance in relation to diversity targets (for agencies with more than 100 employees) in the Director's Annual Reports for 2005/06 and 2006/07.

It is disturbing to note, despite these initiatives, data for 2006/07 records that the Indigenous employment level in the State public sector not only continues to fail to meet the revised and reduced equal opportunity targets but is static.¹²⁶

Finding 53

Given recent initiatives by the Director of Equal Opportunity in Public Employment to ensure that public authorities seriously address Indigenous employment targets (Finding 52), the Committee is disturbed that the data for 2006/07 records that the Indigenous employment level in the State public sector not only continues to fail to meet the revised and reduced equal opportunity targets but is static.

¹²⁶

If the Department of Health data for 2006/07 is excluded; see Chapter 4.3(a).

CHAPTER 5 CONCLUSION

For the reasons outlined in Chapter 1, the Committee regards the issue of Indigenous employment by State agencies as a pressing one, and hopes to develop recommendations that will provide a practical and effective means to address its concerns.

The Committee notes the advice of the Director of Equal Opportunity in Public Employment that there is a need to be persistent in these matters and to take a long term view:

for example, the award winning MATES program (Mentored Aboriginal Training and Employment Scheme) developed by the then Department of Conservation and Land Management took five years to deliver consistent outcomes and probably took eight years before it was accepted as a mature program. Agencies are possibly too quick to abandon employment programs after one bad experience.¹²⁷

In taking a long term view, it merits comment that equal opportunity in public employment has been part of the law of Western Australia since the original *Equal Opportunity Act* was enacted in 1984. After more than 20 years, and with mechanisms to monitor and assist in the attaining of equal opportunity in public employment for Indigenous people, cross-sector employment by the State has matched the Indigenous workforce participation rate (2.5 per cent); although the performance of individual State agencies is highly variable. However, Indigenous employment by the State also remains substantially below the level of Indigenous representation in the general community.

Finding 54

After more than 20 years, and with mechanisms to monitor and assist in the attaining of equal opportunity in public employment for Indigenous people, cross-sector employment by the State has matched the Indigenous workforce participation rate (2.5 per cent); although the performance of individual State agencies is highly variable.

Indigenous employment by the State also remains substantially below the level of Indigenous representation in the general community.

As indicated previously, the Committee also believes that at present the State has a significant opportunity to engage with its Indigenous citizens through public employment.

Factors highlighted as a result of the Committee's examination that appear to limit State employment of Indigenous people include:

¹²⁷ Statement to the Educational and Health Standing Committee from the Director of Equal Opportunity in Public Employment, Office of Equal Employment Opportunity, 21 March 2007, p 5.

- public sector and other State authorities in WA not viewing the creation of Indigenous employment pathways as a core responsibility;
- a failure to distinguish between part and full-time employment with reference to meeting public authority employment targets;
- the failure to meet Indigenous employment targets resulting in the reduction of these targets;
- the significant underestimation of the level of Indigenous community representation;
- the discretionary nature of taking into account diversity outcomes under the Public Sector Recruitment, Selection and Appointment Standard;
- a general failure to recognise merit in workplace diversity within the public sector; and
- the failure of existing Equal Opportunity legislation in this State to require public authorities to develop specific Indigenous employment related strategies or to meet employment targets.

The Committee was considering recommending that the requirement for State public authorities to develop and implement Indigenous employment targets and strategies become mandatory (legally enforceable) under the *Equal Opportunity Act 1984* (WA). However, the failure of recent initiatives implemented by the Director of Equal Opportunity in Public Employment to secure better Indigenous employment outcomes through incorporating targets into CEO Performance agreements and publishing individual authority's performance in relation to diversity targets indicates that more coercive measures may also prove unsuccessful in improving Indigenous employment outcomes.

Instead, the Committee recommends that those public employers which have successfully engaged and retained Indigenous staff, and most particularly the Indigenous managers and staff members involved, be consulted in order to identify what practices have embedded recognition of the value of Indigenous employment into those agencies. As well, the Committee recommends that particular attention be paid to successful initiatives that have been undertaken within the private sector, including those that are to be highlighted at the Indigenous employment forum to be held on 30 November 2007 (refer to Finding 6).

In order to ensure that this contributes to the long-term reform of public employment in this State, the Committee also recommends that the State's Equal Opportunity legislation and Equity and Diversity Plans be reviewed and amended in light of the outcomes of that consultation. It is hoped that this will ensure that State agencies' employment practices and values will come to entrench the critical opportunity that Indigenous employment provides the State to engage with its Indigenous citizens in a meaningful and sustainable way.

Recommendation 4

The Committee recommends that those public employers which have successfully engaged and retained Indigenous staff, and most particularly the Indigenous managers and staff members involved, be consulted in order to identify what practices have embedded recognition of the value of Indigenous employment into those agencies.

The Committee also recommends that particular attention be paid to successful initiatives that have been undertaken within the private sector, including those that are to be highlighted at the Indigenous employment forum to be held on 30 November 2007 (refer to Finding 6).

In order to ensure that this contributes to the long-term reform of public employment in this State, the Committee also recommends that the State's Equal Opportunity legislation and Equity and Diversity Plans be reviewed and amended in light of the outcomes of that consultation.

It is hoped that this will ensure that State agencies' employment practices and values will come to entrench the critical opportunity that Indigenous employment provides the State to engage with its Indigenous citizens in a meaningful and sustainable way.

APPENDIX ONE

HEARINGS HELD

Date	Name	Position	Organisation
21.03.2007	Ms Noela Taylor	Director of Equal Opportunity in Public Employment	Office of Equal Employment Opportunity
	Mr Alan Barrett	Director, Diversity	Office of Equal Employment Opportunity

APPENDIX TWO

STATE AGENCIES AND STATUTORY AUTHORITIES - NO RESPONSE RECEIVED

List of State agencies and statutory authorities from which no responses were received to the Committee survey requesting information on Indigenous employment:

Central West TAFE

Department of Land Information

Electorate Offices¹²⁸

Independent Market Operator

Main Roads Western Australia

Metropolitan Cemeteries Board

Subiaco Redevelopment Authority

Swan TAFE

Western Australian Institute of Sport

¹²⁸ *'Electorate Officers'* - parliamentarians' staff members - are employed by the Parliament's Presiding Officers.¹²⁸ The Presiding Officers' delegate, nominated in the Premier and Cabinet Public Sector Management website mailing list is the Director General of the Department of the Premier and Cabinet (available at: <http://www.dpc.wa.gov.au/psmd/services/mail/maillist.html> Accessed on 4 October 2006).

APPENDIX THREE

STATE AGENCIES AND STATUTORY AUTHORITIES - RESPONSES RECEIVED

List of responses received to the Committee survey concerning Indigenous employment in State agencies and statutory authorities.

Organisation	Date Received	Total FTE	Indigenous FTE	Percentage Indigenous Employees
Albany Port Authority	3 Nov 2006	17.6	0.6	3.41
Animal Resource Centre	6 Nov 2006	57	0	0
Aqwest	23 Oct 2006	33	0	0
Architects Board of Western Australia	16 Feb 2007	2	0	0
Botanic Gardens and Parks Authority	27 Oct 2006	107	1	0.93
Broome Port Authority	28 June 2007	24	1	4.16
Builders' and Painter's Registration Board of Western Australia	3 Nov 2006	60	0	0
Building and Construction Industry Training Fund	24 Oct 2006	9	0	0
Bunbury Port Authority	27 Oct 2006	18	0	0
Burswood Park Board	12 Oct 2006	5	0	0
Busselton Water Board	18 Oct 2006	25	0	0
Central TAFE	1 Nov 2006	886.65	7	0.79
Challenger TAFE	3 Nov 2006	475.15	6.9	1.45
Conservation Commission	16 Oct 2006	5.5	0	0
Corruption and Crime Commission	11 Dec 2006	153	0	0
Country High Schools Hostel Authority	23 Oct 2006	95	0	0
Curriculum Council of Western Australia	17 Oct 2006	136	0	0

EDUCATION AND HEALTH STANDING COMMITTEE

Organisation	Date Received	Total FTE	Indigenous FTE	Percentage Indigenous Employees
C. Y. O'Connor College of TAFE	30 Nov 2006	137	4.55	3.32
Dampier Port Authority	13 Dec 2006	21	0	0
Department for Community Development	3 Nov 2006	1 659	156	9.40
Department for Planning and Infrastructure	29 Jan 2007	1 631	6.7	0.41
Department of Agriculture and Food	17 Nov 2006	1 566	25	1.60
Department of Consumer and Employment Protection	2 Nov 2006	863	4	0.46
Department of Corrective Services ¹²⁹	17 Oct 2006 (3 Nov 2006)	3 122.4	142.5	4.56
Department of Culture and the Arts	7 Nov 2006	690	13	1.88
Department of Education and Training	17 Nov 2006	30 478	709.7	2.33
Department of Education Services	17 Oct 2006	45	2	4.44
Department of Environment and Conservation	17 Nov 2006	1 958	66	3.37
Department of Fisheries	25 Jan 2007	397	6	1.51
Department of Health	21 Dec 2006	25 672	373	1.45
Department of Housing and Works	12 Jan 2007	1 202.94	92.54	7.69
Department of Indigenous Affairs	24 Oct 2006	145	44.5	30.69
Department of Industry and Resources	3 Nov 2006	932	11	1.18
Department of Local Government and Regional Development	16 Nov 2006	121	4	3.30
Department of Racing, Gaming and Liquor	2 Nov 2006	94	2	2.13
Department of Sport and Recreation	31 Oct 2006	140	11	7.85
Department of the Attorney General	10 Nov 2006	1 458.5	67.67	4.51

¹²⁹

Correspondence was received from the Department of Corrective Services on 17 October 2006 stating that the information required by the Committee had been referred to the Department of Attorney General for a response. This response was received on 3 November 2006.

EDUCATION AND HEALTH STANDING COMMITTEE

Organisation	Date Received	Total FTE	Indigenous FTE	Percentage Indigenous Employees
Department of the Premier and Cabinet	6 Dec 2006	796.08	4	0.50
Department of the Registrar, Western Australian Industrial Relations Commission	25 Oct 2006	62	1	1.61
Department of Treasury and Finance	23 Nov 2006	762	1	0.13
Department of Water	3 Nov 2006	478	6	1.25
Disability Services Commission	25 Oct 2006	1 581	16	1.01
Drug and Alcohol Office	3 Nov 2006	175	6	3.43
East Perth Redevelopment Authority	15 Dec 2006	46.5	1	2.15
Eastern Goldfields Transport Board	2 Jan 2007	11	0	0
Economic Regulation Authority	20 Oct 2006	28.4	0	0
Equal Opportunity Commission	25 Oct 2006	28	3	10.71
Esperance Port Authority	12 Oct 2006	78	1	1.28
Fire and Emergency Services Authority	17 Nov 2006	1 163	6	0.52
Forest Products Commission	11 Jan 2007	271.45	0	0
Fremantle Port Authority	16 Oct 2006	278	1	0.36
Gascoyne Development Commission	9 Nov 2006	12	0.5	4.17
Geraldton Port Authority	3 Nov 2006	38	1	2.63
Government Employees Superannuation Board	10 Jan 2007	180	0	0
Gold Corporation	17 Nov 2006	203	4	1.97
Goldfields Esperance Development Commission	16 Oct 2006	12.6	0	0
Governor's Establishment	12 Feb 2006	24	0	0
Great Southern Development Commission	2 Nov 2006	14	0	0
Great Southern TAFE	14 Nov 2006	163.76	7.33	4.48

EDUCATION AND HEALTH STANDING COMMITTEE

Organisation	Date Received	Total FTE	Indigenous FTE	Percentage Indigenous Employees
Hairdressers' Registration Board of Western Australia	25 Jan 2007	5	0	0
Health Promotion Foundation Western Australia	1 Nov 2006	14	0	0
Heritage Council of Western Australia	7 Feb 2007	26	0	0
Horizon Power	30 Oct 2006	196	2	1.02
Insurance Commission of Western Australia	2 Nov 2006	287.4	6	2.09
Keep Australia Beautiful Council (Western Australia)	3 Nov 2006	8.6	0	0
Kimberley Development Commission	7 Dec 2006	12	2	16.67
Kimberley TAFE	12 Dec 2006	128	20.4	15.93
Law Reform Commission of Western Australia	17 Oct 2006	2	0	0
Legal Aid Western Australia	25 Oct 2006	232.05	3.3	1.42
Legal Practice Board	13 Oct 2006	40	0	0
Lotteries Commission	8 Nov 2006	163	1	0.61
Midland Redevelopment Authority	12 Oct 2006	12.5	0	0
Mid West Development Commission	10 Nov 2006	14	2	14.29
Minerals and Energy Research Institute of Western Australia	30 Oct 2006	2	0	0
Nurses Board of Western Australia	8 Nov 2006	22	0	0
Office of Energy	1 Nov 2006	60	0	0
Office of Health Review	30 Oct 2006	13	0	0
Office of the Auditor General	17 Oct 2006	99	0	0
Office of the Director of Public Prosecutions	19 Dec 2006	194.57	4	2.06
Office of the Information Commissioner	25 Oct 2006	9.64	0	0

EDUCATION AND HEALTH STANDING COMMITTEE

Organisation	Date Received	Total FTE	Indigenous FTE	Percentage Indigenous Employees
Office of the Inspector of Custodial Services	25 Oct 2006	14	2	14.29
Office of the Public Advocate	16 Oct 2006	28.9	0	0
Office of the Public Sector Standards Commissioner	30 Oct 2006	34	0	0
Ombudsman ¹³⁰	12 Dec 2006	27	0	0
Parliament of Western Australia ¹³¹	1 Dec 2006	153.73	0	0
Peel Development Commission	2 Nov 2006	13	0	0
Perth Market Authority	12 Oct 2006	3	0	0
Pilbara Development Commission	16 Nov 2006	11	0	0
Pilbara TAFE	27 Nov 2006	186.6	16	8.57
Port Hedland Port Authority	20 Oct 2006	22	0	0
Potato Marketing Corporation	8 Dec 2006	13	0	0
Public Transport Authority	25 Oct 2006	1 138	10	0.88
Public Trust Office	23 Nov 2006	129.8	4	3.08
Racing and Wagering Western Australia	18 Dec 2006	230	0	0
Rottnest Island Authority	16 Nov 2006	107	1	0.93
Small Business Development Corporation	20 Oct 2006	50	0	0
South West Development Commission	25 Oct 2006	24	1	4.17
South West Regional TAFE	24 Nov 2006	225.3	4.3	1.91
State Supply Commission of Western Australia	24 Nov 2006	13	0	0
Swan River Trust	17 Oct 2006	42	0	0

¹³⁰ The Ombudsman's response was dated 19 October 2006 and the original appeared to have been lost in the mail.

¹³¹ The Parliamentary Services Department responded on 23 October 2006 with its FTE figures. The whole of Parliament response was not received until 1 December 2006.

Organisation	Date Received	Total FTE	Indigenous FTE	Percentage Indigenous Employees
Synergy ¹³²	29 Nov 2006	297	0	0
The National Trust of Australia (Western Australia)	21 Dec 2006	20	0	0
Verve Energy	1 Nov 2006	572.5	1	0.17
Veterinary Surgeons Board	6 Oct 2006	2.5	0	0
Water Corporation	23 Oct 2006	2 287	28	1.22
West Coast TAFE	6 Feb 2006	282	3	1.06
Western Australian College of Teaching	7 Dec 2006	18	0	0
Western Australian Electoral Commission	13 Oct 2006	46	1	2.17
Western Australian Greyhound Racing Association	13 Dec 2006	35	0	0
Western Australian Land Authority	7 Nov 2006	120	0.5	0.42
Western Australian Meat Industry Authority	24 Oct 2006	11	0	0
Western Australian Sports Centre Trust	20 Oct 2006	207	1.2	0.58
Western Australian Tourism Commission	11 Dec 2006	164	1	0.61
Western Australian Treasury Corporation	12 Oct 2006	43	0	0
Western Australian Police	7 Nov 2006	6 495	178	2.74
Western Power	3 Nov 2006	2 124	10	0.47
Wheatbelt Development Commission	26 Oct 2006	12	0	0
Worker's Compensation and Rehabilitation Commission	8 Nov 2006	142	0	0
Zoological Parks Authority	31 Oct 2006	155	1	0.64
TOTAL		97 886.62	2 120.19	2.17

¹³² Synergy advised that the number of FTE positions occupied by Indigenous employees was not known (as of 27 November 2006). In 2007, it reported an Indigenous 'head count' of two employees to the Office of Equal Employment Opportunity.

