



***JOINT STANDING COMMITTEE ON
THE CORRUPTION AND CRIME
COMMISSION***

**PUBLIC HEARING WITH THE INTEGRITY
COORDINATING GROUP ON 13
SEPTEMBER 2006**

**Report No. 20
in the 37th Parliament**

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Joint Standing Committee on the Corruption and Crime Commission

Public Hearing with the Integrity Coordinating Group on 13 September 2006

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Report No. 20

Presented by:

Mr John Hyde, MLA and Hon. Ray Halligan, MLC

Laid on the Table of the Legislative Assembly and Legislative Council
on 29 March 2007

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COMMITTEE'S FUNCTIONS AND POWERS

On 31 May 2005 the Legislative Council concurred with a resolution of the Legislative Assembly to establish the Joint Standing Committee on the Corruption and Crime Commission.

The Joint Standing Committee's functions and powers are defined in the Legislative Assembly's Standing Orders 289-293 and other Assembly Standing Orders relating to standing and select committees, as far as they can be applied. Certain standing orders of the Legislative Council also apply.

It is the function of the Joint Standing Committee to -

- (a) monitor and report to Parliament on the exercise of the functions of the Corruption and Crime Commission and the Parliamentary Inspector of the Corruption and Crime Commission;
- (b) inquire into, and report to Parliament on the means by which corruption prevention practices may be enhanced within the public sector; and
- (c) carry out any other functions conferred on the Committee under the *Corruption and Crime Commission Act 2003*.

The Committee consists of four members, two from the Legislative Assembly and two from the Legislative Council.

CHAIRMAN'S FOREWORD

As far back as August 2002 in my former capacity as Member of the Joint Standing Committee on the Anti-Corruption Commission (predecessor to the Corruption and Crime Commission) the Committee resolved to conduct an *Inquiry into Integrity within the Public Sector*.¹ One of the core components of examination was the integration of oversight agencies, including the concept of a one-stop shop for public access to these services. The Inquiry ceased on tabling of the *Corruption and Crime Commission Bill 2003*² and the subsequent dissolution of the Anti-Corruption Commission.

In the formative stages of establishment of the Joint Standing Committee on the Corruption and Crime Commission brief discussions occurred with some of the integrity agencies around the notion of effective mechanisms for information sharing. Again, given ongoing concerns about possible overlap in service provision and perceived inadequate frameworks for information sharing amongst key integrity/regulatory agencies. Of particular focus were the Corruption and Crime Commission, the Office of the Public Sector Standards Commissioner, the Parliamentary Commissioner for Administrative Investigations and the Office of the Auditor General.

Early 2005 saw the establishment of an Integrity Coordinating Group designed to enhance integrity within the public sector through greater 'policy coherence and operational coordination' between the above detailed agencies. Although not a one-stop shop, the Committee views this to be a significant development for improved service delivery both to public sector agencies and where relevant, to the public at large. The concept follows along similar lines to that of 'whole of Government' approaches to service delivery, the benefits of which are outlined within.

It is the Committee's mandate to keep appraised and report to Parliament on developments impacting on the levels of public sector corruption in this State, hence this examination of the Integrity Coordinating Group. It is fair to say that with the date of the scheduled hearing some 12 months after the establishment of the Group, much attention has been given to the determination of processes and future directions. That said, there has been some interesting work undertaken around the issue of conflict of interest, a concern raised regularly within the hearings of this Committee and its predecessor Committees.

¹ Parliament of Western Australia, Available at:
<http://intranet/intranet/piframesi.nsf/iframewebpages/Committees+Past> Accessed on 22/02/2007.

² Parliament of Western Australia, Available at:
<http://intranet/intranet/piframesi.nsf/iframewebpages/Bills+All> Accessed on 22/02/2007.

The Joint Standing Committee on the Corruption and Crime Commission intends to meet regularly with the Integrity Coordinating Group to assess its activities and where possible, its impact on integrity within the public sector.

MR JOHN HYDE, MLA
CHAIRMAN

ABBREVIATIONS AND ACRONYMS

“ICG”	Integrity Coordinating Group
“OAG”	Office of the Auditor General
“CCC”	Corruption and Crime Commission
“OPSSC”	Office of the Public Sector Standards Commissioner
“TI”	Transparency International

GLOSSARY

“Ombudsman”	Parliamentary Commissioner for Administrative Investigations
“Transparency International”	Global civil society organisation established to fight corruption

CHAPTER 1 INTRODUCTION

1.1 Background

Under its terms of reference, the Joint Standing Committee on the Corruption and Crime Commission is tasked with, amongst other responsibilities, monitoring the performance of the Corruption and Crime Commission and inquiring into and reporting to Parliament on the means by which corruption prevention practices may be enhanced within the public sector.

In 2005 the Integrity Coordinating Group (ICG)³ was established in recognition of the need for greater policy coherence and operational coordination amongst key Government integrity bodies in order to improve integrity within the public sector. Membership of this cross-agency venture includes the Parliamentary Commissioner for Administrative Investigations (Ombudsman), the Office of the Commissioner for Public Sector Standards (OPSSC), the Corruption and Crime Commission (CCC), and the Office of the Auditor General (OAG). All these agency politics are independent statutory offices reporting directly to Parliament. The group membership comprises the respective agency heads and at the time of the hearing was chaired by Ms Deirdre O'Donnell, Ombudsman, who had recently assumed this responsibility from Ms Maxine Murray, Commissioner for Public Sector Standards. It should be noted that at the time of tabling of this report, Ms O'Donnell had resigned from the position of Ombudsman.

As with the establishment of any new governance structure it takes time to develop operating frameworks and to scope activities. The Committee are of the opinion that the initial establishment phase of the ICG is complete and that it is therefore appropriate to review the intent and future directions of the group. A public hearing was held with the ICG on 13 September 2006. The review included an examination of the respective roles of the core integrity agencies and their collaborative efforts on the ICG. The transcript of the hearing is available at Appendix 2 of this report.

The concept of the ICG was informed by a report of Griffith University, entitled *Chaos or Coherence? Strengths, Opportunities and Challenges for Australia's Integrity Systems*,⁴ which recommended the establishment by statute of a Governance Review Council in each Australian jurisdiction to promote coordination between core integrity agencies. The ICG chose a less formal policy based approach with similar objectives.⁵ The ICG has no statutory powers or status of its own and according to the ICG, does not constitute a fifth integrity agency. Each member agency as independent statutory office holders continue to exercise their responsibilities under their

³ Office of the Public Sector Standards Commissioner, Available at: <http://www.opssc.wa.gov.au/icg/intersectorarticle.htm> Accessed on 22/02/2007.

⁴ Griffith University, Available at: <http://www.griffith.edu.au/centre/kceljag/nisa/> Accessed on 22/02.2007.

⁵ Office of the Public Sector Standards Commissioner, Available at: <http://www.opssc.wa.gov.au/icg/intersectorarticle.htm>. Accessed on 20/02/2007.

respective legislation with the ICG having no determinative or other power in relation to those functions.⁶ According to Ms O'Donnell, then Ombudsman, the ICG provides:

*...a mechanism for cooperation and coordination between the member agencies, with the shared goal of strengthening integrity in the public sector. It helps ensure an integrated and well-coordinated approach to integrity issues across the sector. The ICG, as we see it, is a forum through which member agencies can share information about their activities and undertake joint research and other initiatives to promote integrity. It helps ensure a consistent approach to communication and education.*⁷

The ICG meet quarterly and a sub working group once per month. The required budget of the ICG is met via negotiation between the participating agencies. The aspect of budget did not appear to be a particularly concerning issue. According to Mr Des Pearson, Auditor General, the ICG is about 'cooperative collaboration', the dividend of which is seen as 'far outweighing the investment'.⁸

It is understood that integrity related agencies, academics and equivalent counterparts in other Australian jurisdictions are closely monitoring progress of the ICG.⁹

The terms of reference for the group are as follows:

- Fostering cooperation between public sector integrity bodies;
- Encouraging coordinated research, evaluation and monitoring of the implementation of integrity and accountability;
- Fostering operational cooperation and consistency in communication, education and support in public sector organisations;
- Providing ongoing advice to Government and the public through existing mechanisms on institutional and law reforms needed to maintain and develop integrity in the WA public sector; and
- Sponsoring comparative research, evaluation and policy discussion regarding integrity mechanisms in Western Australia, and other jurisdictions, nationally and internationally.¹⁰

⁶ Ms Deirdre O'Donnell, Parliamentary Commissioner for Administrative Investigations, *Transcript of Evidence*, 13/09/2006, p2.

⁷ Ms Deirdre O'Donnell, Parliamentary Commissioner for Administrative Investigations, *Transcript of Evidence*, 13/09/2006, p2.

⁸ Ms Des Pearson, Auditor General, Office of the Auditor General, *Transcript of Evidence*, 13/09/2006, p14.

⁹ Ms Deirdre O'Donnell, Parliamentary Commissioner for Administrative Investigations, *Transcript of Evidence*, 13/09/2006, p2.

¹⁰ Office of the Public Sector Standards Commissioner, Available at: <http://www.opssc.wa.gov.au/icg/intersectorarticle.htm> Accessed on 22/02/2007.

The JSCCCC has reviewed the above referenced Griffith University Report and concurs that the role and functions of the ICG reflect the intent of Recommendation 2 of that Report pertaining to the establishment of a Governance Review Council. The JSCCCC do not currently view that establishment by statutory provision is required. The ICG is clearly based on the initiative and cooperation of the key integrity agencies, a principal that is not necessarily guaranteed by legislation. The JSCCCC will continue to review the performance of the ICG through the conduct of regular hearings with consideration given as to whether legislative provision is required in the future.

This report provides a synopsis of the key issues discussed at hearing with the ICG.

1.2 The role of Government's key integrity agencies and their interface with the ICG

In recent times Government agencies and the public have been faced with the notion of 'whole-of-Government' approaches to the development and roll-out of public policy initiatives. The concept is largely based on collective-decision making allowing for the most informed articulation of challenges faced and a strategic assessment of the relative merits of various approaches to how these might be addressed. Collegiality at the most senior levels is critical to the development of a culture that supports this unified focus. This approach, if effective, overcomes a level of agency demarcation that inhibits successful policy development and delivery, allowing the latter to occur in a more seamless and less duplicative manner.¹¹ Although acknowledging that the ICG is not 'whole-of-Government' the principle is the same. Such an approach allows one Government agency to build on relevant initiatives of another.

The CCC, amongst other responsibilities, has a mandated prevention and education function whereby the Commission uses information from investigations and notifications to enhance the capacity of public sector agencies to prevent misconduct. It is in this area that it is best able to interface with the ICG to maximise the impact and benefit of those activities. Mr Hammond, Commissioner, CCC, talks about the benefits of this approach in terms of seamless service delivery and a reduction in duplication:

Much of the activity of the CCC is operational and, accordingly, confidential, but in its review and education activities, which are very ably led by Dr Froyland, we are happy to share our plans with other people so that there is no conflict of language and, whenever possible, duplication is prevented. There is a great deal to be examined by this collaboration. We trust that the Integrity Coordinating Group is not seen as yet another agency in itself, but if we can adopt a common language and coordinated approach whenever possible, this can only be beneficial across the board. The group will ensure that the respective agencies do not send conflicting messages out into the community.¹²

¹¹ Australian Public Service Commission, Available at: www.apsc.gov.au/mac/connecting_government.htm Accessed on 20/02/2007.

¹² Mr Kevin Hammond, Commissioner, Corruption and Crime Commission, *Transcript of Evidence*, 13/11/2006, p2.

This concept of consistency in the messages given to agencies and in turn, their employees, was one also promoted by the Auditor General.¹³

The OAG has a broader mandate than purely audit of financial statements. It includes audit of controls, compliance, accountability, efficiency and effectiveness. Mr Pearson describes the OAG's role and its interface with the ICG as follows:

*In terms of actions taken in relation to integrity issues, my office has had a strong push in mainstreaming resource management and external reporting. Rather than seeing them as serial and additional obligations on agencies, we see them as part of the mainstream management. Again, that is where the link back into the Integrity Coordinating Group is important in our view. We are strong supporters of the ongoing education of and advice to senior managers. We see that as both educational and preventive. We believe that if people are well informed, they will be in a better position to make appropriate resource management decisions and maximise the return on taxpayers' dollars. In that respect we value our participation in Integrity Coordinating Group panel discussions at senior integrity officers' forums, because they are a valuable two-way communication mechanism that helps us to rise above our day-to-day issues of undertaking the audit and understanding issues of concern to agencies. We can then assist with the education of agencies, and conversely we can better inform our field staff on how to address issues. To give a particular example, we were happy to contribute funding towards the development of a conflict of interest tool kit, because conflict of interest is a fundamental aspect of integrity, yet although it is such a common term, it is commonly misunderstood. Therefore, we saw that as a very important area, and we are very supportive of that as being one of the early initiatives of the Integrity Coordinating Group.*¹⁴

Mr Pearson reinforces however the notion of the ICG being complementary to the primary role of the OAG in ensuring (within its mandate) the integrity of public institutions. He cites that the OAG are vigilant in ensuring that the ICG does not detract from the agency's independence.¹⁵

The prescribed role of the Ombudsman under the Parliamentary Commissioner Act 1971 is to 'investigate administrative acts or omissions in State Government agencies and local government authorities'.¹⁶ This principally occurs through the receipt of public complaints, although can and does occur in relation to own motion investigations. Ms Deirdre O'Donnell, then Ombudsman, details the agency's mission as follows:

¹³ Mr Des Pearson, Auditor General Office of the Auditor General, *Transcript of Evidence*, 13/09/2006, p5.

¹⁴ Mr Des Pearson, Auditor General of Western Australia, Office of the Auditor General, *Transcript of Evidence*, 13/09/2006, p4.

¹⁵ *Ibid.*, p5.

¹⁶ Ms Deirdre O'Donnell, Parliamentary Commissioner for Administrative Investigations, *Transcript of Evidence*, 13/09/2006, p3.

*...to assist the Parliament of Western Australia to be confident that the public sector of this state is accountable for, and is improving the standard of, administrative decision making, practices and conduct.*¹⁷

The Ombudsman has wide investigative powers, including that of a Royal Commission. Apart from the Office's reactive role described above, it proactively provides assistance to the public sector in relation to complaint handling processes and improved administrative practice.¹⁸

Ms O'Donnell sees the interface with the ICG in terms of continually improving and refining processes within a collaborative framework, citing an example as improved complaint handling procedures.¹⁹

The OPSSC has general oversight responsibilities for human resources (including the employment of public sector Chief Executive Officers), official conduct and awareness raising and compliance monitoring in relation to the *Public Interest Disclosures Act 2003*. Under the *Public Sector Management Act 1994* and the *Public Interest Disclosure Act 2003*, Ms Maxine Murray, Commissioner for Public Sector Standards is required to:

*...establish standards setting out minimum standards of merit, equity and probity; to establish codes of ethics setting out minimum standards of conduct and integrity; and, importantly, to monitor compliance with those standards and codes. I also have an assistance role, in addition to that monitoring role, where I am required to assist public sector bodies to develop, amend or repeal their codes of conduct, and to assist them in complying with the HR standards and the public interest disclosure legislation. I report from time to time to Parliament and to the ministers of the Crown responsible for particular public sector bodies on compliance with those principles, codes and standards.*²⁰

1.3 Achievements to date

A number of the achievements cited to date are synchronous with the establishment or foundation phase of most organisations. This includes promotion of purpose and activities, in this instance, via publicity, distribution of brochures and letters to Government agencies, local government, Members of Parliament and the establishment of a website via the OPSSC domain.²¹

A Senior Integrity Officers' Forum has been instituted to bring together persons at executive level with responsibility for integrity issues. The forums are host to key-note speakers or panels on

¹⁷ Ibid.

¹⁸ Ibid., pp3-4.

¹⁹ Ibid., p10.

²⁰ Ms Maxine Murray, Commissioner for Public Sector Standards, Office of the Commissioner for Public Sector Standards, *Transcript of Evidence*, 13/09/2006, p5.

²¹ Ms Deirdre O'Donnell, Parliamentary Commissioner for Administrative Investigations, *Transcript of Evidence*, 13/09/2006, pp2-3.

integrity related issues and provide an opportunity for feedback from the ICG. The ICG intends to provide two Senior Integrity Officers' Forums in 2007.²²

The ICG and in turn Western Australian Public Sector agencies are currently participating in a Griffith University led national research project on whistleblowing. Although national, the project principally involves Queensland, New South Wales and Western Australia. ICG note that under this project 62 agencies have responded to a survey of policies and practices, 29 have partaken in a survey of employees' attitudes and a further three have agreed to serve as case studies in respect to agency practices in managing public interest disclosures. It is understood that the results will be available in early 2007.²³

In line with its responsibility for fostering operational cooperation and consistency in education, the ICG has developed conflict of interest guidelines.²⁴ The development of the latter follows on from a seminar on conflict of interest in the public sector hosted by the ICG and Institute of Public Administration Australia in November 2005 which involved a key note speaker from the Crime and Misconduct Commission Queensland with expertise in the area. A DVD was produced of this forum. A kit which was launched in late 2006 essentially provides information that defines conflict of interest, responsibility for identification and management of such situations, related legislative provision, risk areas, advice on addressing conflict of interest and avenues for further information.²⁵

The Committee was informed that the ICG has met recently to endorse a work program for 2006-07. Ms O'Donnell, in referencing the comments of Mr Des Pearson above, informed that this will involve 'examining the possibility of consolidating the reporting requirements on integrity matters within the annual reports prepared by agencies'.²⁶ The ICG has met with relevant Government agencies to explore the practical implications of implementation. Ms O'Donnell details the benefits of such an approach:

At present agencies are required to report on a range of integrity related issues, such as breaches of the public sector standards. As Des [Pearson] indicated, these tend to be scattered throughout annual reports, and it is not easy to get an overall picture of how well an agency is tracking with its integrity indicators. Presenting the relevant information in a consolidated form would give annual reports a clear focus on integrity and also help raise the profile of integrity issues within agencies. I stress that we are not going to add to the existing reporting requirements. We are trying to give them a bit more meaning and consolidation.²⁷

²² Ibid.,p3.

²³ Ibid.

²⁴ Ibid.

²⁵ Office of the Public Sector Standards Commissioner, Available at: <http://www.opssc.wa.gov.au/icg/coi/index.htm> Accessed on 20/02/2007.

²⁶ Ms Deirdre O'Donnell, Parliamentary Commissioner for Administrative Investigations, *Transcript of Evidence*, 13/09/2006, pp5-6.

²⁷ Ibid.

The ICG has also developed a brochure entitled ‘*Taking Action on Integrity Issues*’. It provides information on the avenues available for raising integrity concerns both internal and external to a Government agency.²⁸

1.4 Improved levels of integrity within the public sector

The Committee queried whether there are greater levels of transparency within public sector agencies and better performance by integrity bodies than has previously existed. Mr Des Pearson responded with the following comment:

...I would argue that we are better off in relative terms if I look at the Western Australian public sector at 15-year points. It is decidedly in a better position, but at the same time the community is far more complex and more informed, which is more demanding...If I may relate back to my own area and financial operations and key performance indicators, 15 years ago there were no key performance indicators...The agencies said that they were too hard and the auditor said that because they were too hard and the agencies were not going to do them, he could not give an opinion. Now we have opinions and we are having debates about the quality of the performance indicators. If we go back 15 years, there was cash accounting. With respect to cost accounting professors and lecturers, the best lesson I got was from a plumber who told me it was one for wages, one for overheads and one for profit. Under that formula, we were operating with somewhere between a half and a third of the relevant information. We are now operating on the basis of full accrual accounting and we have more complex but more comprehensive information. Fifteen years ago the financial year started on 1 July and at some time late in August, I think, we brought down a budget. We now bring down a budget in May and debate it and pass it before 1 July so that we have the budget. Our annual reports are far more comprehensive. Our project now is on how to rationalise it, because there is a difference between the volume of data and information. Our challenge is distilling and crystallising it. In that respect I would argue that we are very much more advanced, but we face different challenges because we have so much more information. We are now having a problem consuming the information available, whereas 15 years ago the information just was not there...²⁹

Mr Pearson implied that there has been a shift in the culture of secrecy regarding access to Government held information with the advent of more sophisticated systems and the introduction of Freedom of Information legislation. He detailed that the challenge to confidentiality has come from a more ‘informed and articulate community’ courtesy of the education system. He notes that access to information is obviously dependent on personal ability and resources.³⁰

In reference to service delivery by integrity agencies and the broader public sector, Mr Pearson notes:

As you were going through the points, in one part my mind was saying the public will never get everything it wants, in a sense, but it is getting a pretty good optimum mix delivered. The issue I have

²⁸ Ibid., p6.

²⁹ Mr Des Pearson, Auditor General, Office of the Auditor General, *Transcript of Evidence*, 13/09/2006, p8.

³⁰ Ibid., p8.

a concern about, and it is probably my resource management background, is that for a decade or more the public service has been running lean for a bit too long. We all know that the maintenance and investment can be deferred, but there comes a point where it has to be got back into balance. My current thinking is we have run lean and mean probably for a while too long and the time is approaching when we need to consciously focus on investing in the sustainability of the sector. That might be a selfish thing, but after 35 years of working in the public sector I do not see the induction and grounding I got happening now. I have not seen it happening for a decade. In my office we have taken on between six and 10 graduates a year since the '70s and we still do it, but we are lucky nowadays, two or three years on, to have any graduate left from two or three years ago. It is a far more mobile and flexible work force. As a service we need to sustain the integrity, quality and calibre of the service. I think we need to value it more and invest in it more.³¹

Ms Murray noted that the research undertaken by Griffith University (in conjunction with Transparency International) examined 'integrity mapping', that is a mapping of the integrity systems within various jurisdictions. Ms Murray comments further on this initiative:

If one applied that integrity map that they came up with, the community would see that in WA the four of us have integrity institutions that they would regard as necessary to have a best practice integrity system. They said it needed coordinating, so we took the initiative to coordinate ourselves. They were suggesting some kind of legislative arrangement. There are always problems, which I am sure that the public and the committees see, of overlaps and conflicting bits of legislation. The people doing the integrity mapping research said that was not necessarily a bad thing; it means that things do not fall between the cracks if there is a bit of overlap. We thought it was important that we collaborate to make sure that while institutions are there in the mapping sense, they work collaboratively to make it easier for people to access and for the people who have to do the work in agencies to have this common language in the sense that we are not overlapping in what we do with them and the work we do with them.³²

Transparency International (TI) currently collate data on public sector corruption in 163 countries in the world. Information is drawn from a survey of experts in the field. Countries are scored in a TI Corruption Perceptions Index on a scale of 0-10 according to whether they have perceived high or low levels of corruption (respectively).³³ The Committee queried whether there were benefits to this system. Ms Murray responded:

I use that information and I read avidly what comes from Transparency International, because it is very difficult when there might be some publicity about particular incident and people make comments about unethical behaviour. If you are the agency trying to illustrate that as a general rule the level of ethics in the public sector is high, it is difficult

³¹ Ibid., p9.

³² Ms Maxine Murray, Commissioner for Public Sector Standards, Office of the Commissioner for Public Sector Standards, *Transcript of Evidence*, 13/09/2006, p9.

³³ Transparency International, Available at: http://www.transparency.org/policy_research/surveys_indices/cpi Accessed on 22/02/2007.

*to measure and to come up with indexes and ranking systems. I find that ranking system very helpful because it is a starting point.*³⁴

The Committee mooted the notion of research being conducted on levels of public sector corruption within the Australian jurisdictions along similar lines to that of the TI Corruption Perceptions Index thereby allowing for national comparison.³⁵

Ms Murray also noted that unlike the other Australian jurisdictions, the Western Australian model for the OPSSC ensures that the Commissioner reports directly to Parliament providing greater transparency in terms of compliance by Government agencies with requisite ethical and human resource standards.³⁶

Ms O'Donnell detailed that the Ombudsman's Office benchmarks performance against equivalent agencies interstate. She also noted that Western Australia leads other jurisdictions in terms of determining a standard of complaint handling consistent with the Australian Standard. This development was the result of collaboration between the OAG and the Ombudsman's Office and the associated Premier's circular now serves as a benchmark for all Australian jurisdictions. Ms O'Donnell comments on the implications of the latter:

*If every single director-general is accountable for complying with the Australian Standard on complaint handling and they do, then that is a mechanism that you as parliamentarians can call on as part of your own confidence in processes.*³⁷

Ms O'Donnell also stated that it is the intention of the Ombudsman's Office to table reports, where relevant, on the implementation of recommendations made by that Office pertaining to administrative processes and procedures in Government agencies.³⁸

1.5 A 'One-Stop Shop' for integrity agencies

The Committee mooted the concept of a one-stop shop for integrity agencies for improved public access to, and in recognition of the confusion inherent in accessing, the services afforded by those agencies.³⁹

³⁴ Ms Maxine Murray, Commissioner for Public Sector Standard, Office of the Public Sector Standards Commissioner, *Transcript of Evidence*, 13/09/2006, pp9-10.

³⁵ Mr John Hyde, MLA, Chairman, Joint Standing Committee on the Corruption and Crime Commission, *Transcript of Evidence*, 13/09/2006, p14.

³⁶ Ms Maxine Murray, Commissioner for Public Sector Standard, Office of the Public Sector Standards Commissioner, *Transcript of Evidence*, 13/09/2006, p10.

³⁷ Ms Deirdre O'Donnell, Parliamentary Commissioner for Administrative Investigations, *Transcript of Evidence*, 13/09/2006, p10.

³⁸ *Ibid.*, pp11-12.

³⁹ Mr John Hyde, MLA, Chairman, Joint Standing Committee on the Corruption and Crime Commission, *Transcript of Evidence*, 13/09/2006, p6.

Mr Pearson implied that although theoretically the concept was a positive one, the reality is that the Public Sector is so large, complex and diverse that it is probably unrealistic in practice.⁴⁰ Both Mr Pearson and Ms O'Donnell detailed however that the ICG via its sub working group is impacting significantly at the organisational level through the development of stronger mutual understanding of the roles of the respective agencies and that this is being reflected where relevant in appropriate on-referral of the public.⁴¹ Ms O'Donnell views that the '*Taking Action on Integrity Issues*' brochure which simplifies the 'complex legislative reality' associated with integrity agencies value-adds to that process.⁴² Mr Pearson also detailed that the latter has resulted in an improved understanding, certainly within the OAG, of confidentiality and secrecy requirements of the agency, that is, what staff can and cannot disclose.⁴³

The Committee raised the issue of whether relevant agency staff had been trained to provide accurate information to the public in relation to the services provided by other integrity agencies. The indication was that there was no formal training although staff did have access to the '*Taking Action on Integrity Issues*' brochure as well as utilising their own personal resources to track appropriate services.⁴⁴

Ms O'Donnell detailed that the OPSSC, the Office of Health Review, the Commonwealth Ombudsman and the Information Commissioner are all co-located, providing a similar model to a one-stop shop. Ms O'Donnell comments on the benefits of this approach:

To provide an example, the greatest number of complaints I receive are from prisoners. Complaints include issues about health matters, commonwealth matters, detention laws and state matters. Our reception can put that complaint directly to the agency, or if a person visits, we can come and meet with them. That is a very good outcome for members of the public who are complaining. That is a good crossover. I have jurisdiction over the Office of Health Review. It is not an integrity agency; nevertheless, through the benefits of co-location, we will share a lot of issues around - for example, how we receive and treat

⁴⁰ Mr Des Pearson, Auditor General, Office of the Auditor General, *Transcript of Evidence*, 13/09/2006, p6.

⁴¹ Ibid., p6.

⁴² Ms Deirdre O'Donnell, Parliamentary Commissioner for Administrative Investigations, *Transcript of Evidence*, 13/09/2007, p7.

⁴³ Mr Des Pearson, Auditor General, Office of the Auditor General, *Transcript of Evidence*, 13/09/2007, p7.

⁴⁴ Ms Maxine Murray, Commissioner for Public Sector Standards, Office of the Commissioner for Public Sector Standards, *Transcript of Evidence*, 13/09/2007, p7.

*complainants and how accessible we are. Another great benefit is that through outreach programs, we can raise awareness about the range of agencies with which we are co-located.*⁴⁵

There was a brief discussion with the Ombudsman about confidential complaint processes for prisoners.⁴⁶

⁴⁵ Ms Deirdre O'Donnell, Parliamentary Commissioner for Administrative Investigations, *Transcript of Evidence*, 13/09/2007, p12.

⁴⁶ *Ibid.*, p13.

APPENDIX ONE

WITNESSES TO PUBLIC HEARINGS

Date	Name	Position	Organisation
13 September 2006	Kevin Hammond	Commissioner	Corruption and Crime Commission
13 September 2006	Deirdre O'Donnell	Ombudsman	Ombudsman Western Australia
13 September 2006	Irene Froyland	Director, Corruption Prevention, Education and Research	Corruption and Crime Commission
13 September 2006	Desmond Pearson	[then] Auditor General	Office of the Auditor General
13 September 2006	Maxine Murray	Commissioner for Public Sector Standards	Office of the Public Sector Standards Commissioner
13 September 2006	Colin Murphy		Office of the Auditor General

APPENDIX TWO

TRANSCRIPT OF PUBLIC HEARING WITH THE INTEGRITY COORDINATING GROUP ON 13 SEPTEMBER 2006

**JOINT STANDING COMMITTEE ON THE
CORRUPTION AND CRIME COMMISSION**

**TRANSCRIPT OF EVIDENCE TAKEN
AT PERTH
WEDNESDAY, 13 SEPTEMBER 2006**

Members

**Mr John Hyde (Chairman)
Hon Ray Halligan (Deputy Chairman)
Mrs Judy Hughes
Hon Margaret Rowe**

Hearing commenced at 10.30 am

HAMMOND, MR KEVIN

Corruption and Crime Commission Commissioner, examined:

FROYLAND, DR IRENE DAGMAR

Director, Corruption Prevention, Education and Research, Corruption and Crime Commission, examined:

O'DONNELL, MS DEIRDRE ANNE

Parliamentary Commissioner for Administrative Investigations, examined:

MURRAY, MS MAXINE

Commissioner for Public Sector Standards, examined:

PEARSON, MR DESMOND

Auditor General, examined:

MURPHY, MR COLIN PETER

Office of the Auditor General, examined:

The CHAIRMAN: I welcome everyone to the hearing. The committee hearing is a proceeding of Parliament and warrants the same respect that procedures in the house itself demand. Even though you are not required to give evidence on oath, any deliberate misleading of the committee may be regarded as contempt of Parliament. Have you completed the "Details of Witness" form?

The Witnesses: Yes.

The CHAIRMAN: Did you understand the notes attached to it?

The Witnesses: Yes.

The CHAIRMAN: Did you receive and read an information for witnesses briefing sheet regarding giving evidence before parliamentary committees?

The Witnesses: Yes.

The CHAIRMAN: I understand that you have tossed a collective coin and your designated spokesperson will make an opening statement to the committee.

Mr Hammond: Thank you, Mr Chairman. I am not quite sure whether I won or lost the toss! Very briefly and by way of introduction, the Corruption and Crime Commission, of which I am the commissioner, differs from its predecessor in a

number of significant ways. First, it is not as constrained by confidentiality and can be more open about its activities and work, but, more significantly for today's purposes, it has a prevention and education function whereby the commission uses the information from its investigations and notifications in its work to increase the capacity of public authorities to prevent misconduct. This is a statutory duty as set out in the act. In order to maximise the impact and benefit of those activities, it is obvious that we should work whenever possible in cooperation with relevant agencies. We have been fortunate to work in cooperation with interstate agencies - for example, the ICAC, the CMC and the like - but, of course, there are always state and regional differences and the legislation of course is quite different.

When the Commissioner for Public Sector Standards approached the Corruption and Crime Commission about establishing a communication mechanism to improve the collaboration of the respective authorities and to reduce the likelihood of any conflict of programs or activities, we were very positive about it. It is important, however, to remember that the four agencies have different powers, functions, resources and very different jurisdictions. Much of the activity of the CCC is operational and, accordingly, confidential, but in its review and education activities, which are very ably led by Dr Froyland, we are happy to share our plans with other people so that there is no conflict of language and, whenever possible, duplication is prevented. There is a great deal to be examined by this collaboration. We trust that the Integrity Coordinating Group is not seen as yet another agency in itself, but if we can adopt a common language and coordinated approach whenever possible, this can only be beneficial across the board. The group will ensure that the respective agencies do not send conflicting messages out into the community. Mr Chairman and members, may I introduce Ms Deirdre O'Donnell, state Ombudsman and the current chair of the Integrity Coordinating Group.

Ms O'Donnell: As chair of the ICG, I would like to start by thanking the committee for this opportunity to appear before it today and to let committee members know about our activities. With your agreement, we propose to start by giving you an outline of the ICG and a summary of our activities to date. I understand that committee members are also interested in hearing more about the roles of individual ICG members, and I will call on my colleagues to make a brief presentation to you on this topic.

To start with, the ICG was formed in January 2005. It brings together the four principal integrity monitoring agencies in Western Australia - the CCC, the Public Sector Standards Commission, the Office of the Auditor General and the state Ombudsman. All four are independent statutory offices reporting directly to the Parliament. The Commissioner for Public Sector Standards was the inaugural chair of the group and, as the group agreed to rotate the role, I took over as chair in February 2006. The model is unique within Australia and, to the best of our knowledge, internationally. Our counterparts in other jurisdictions are following the progress of the ICG closely, and we have also attracted the attention of academics and other bodies with a particular interest in integrity issues.

Before talking about the ICG's activities, it is important to clarify what the ICG is and what it is not. As Kevin has indicated, it is a purely administrative arrangement. It is established by the agreement of the four members. It has no statutory powers or status

of its own, and I reiterate that it does not constitute a fifth integrity agency. As independent statutory office holders ourselves, the members continue to support integrity by exercising their primary responsibilities under their respective legislation. The ICG itself has no control whatsoever over the performance of these functions. The ICG provides a mechanism for cooperation and coordination between the member agencies, with the shared goal of strengthening integrity in the public sector. It helps ensure an integrated and well-coordinated approach to integrity issues across the sector. The ICG, as we see it, is a forum through which member agencies can share information about their activities and undertake joint research and other initiatives to promote integrity. It helps ensure a consistent approach to communication and education.

I will speak briefly about our achievements to date. The ICG is relatively young, having been operational now for some 18 months, and is breaking new ground. In view of this, all of us would say that its achievements are very pleasing. In the first year of our operations, we undertook a range of what we called foundation-building activities. We promoted awareness of our purpose and activities through publicity and the distribution of a brochure and letters to agencies, local governments, mayors and members of Parliament and we established our own web site. We also established a senior integrity officers' forum to provide opportunities to bring together senior people from agencies with responsibility for integrity issues. At the forums, we update them on our activities and we have keynote speakers or panels on key integrity-related topics. We are participating in a national research project on whistleblowing that is being led from Griffith University. I am pleased to advise the committee that the response from the WA sector in volunteering to participate in this research has been very positive. In all, 62 agencies responded to a survey of policies and practices, 29 agencies have taken part in a survey of employees' attitudes and three agencies have agreed to serve as case studies in a more detailed examination of agency practices in managing public interest disclosures. The results are expected to be available early next year.

The CHAIRMAN: Is this quarantined to Western Australia, or will it be benchmarked with Queensland bodies if Griffith University is doing it?

Ms O'Donnell: It is a national project being led by Griffith University, so our counterpart agencies and organisations across Australia are involved.

The CHAIRMAN: Is every state involved?

Ms O'Donnell: To my knowledge, yes, I am pretty sure that every state is involved, but I will check that, Mr Chairman.

Dr Froyland: Not quite every state.

Ms O'Donnell: Is Tasmania? The smaller ones are not.

Dr Froyland: Tasmania and Victoria are not as actively involved. It is principally Queensland, New South Wales and Western Australia.

Ms O'Donnell: Our first major education project was the development of a resource kit to help agencies improve their handling of conflicts of interest. The kit was launched at a forum late last year and has been very positively received throughout the

sector. ICG members remain committed to working collaboratively on integrity issues, and we will continue to work together to raise the profile of integrity issues and present to the sector an integrated approach on these issues. I understand that committee members have expressed an interest in hearing from members of the ICG about their individual responsibilities. Therefore, with your permission, Mr Chairman, I will give a brief outline of my responsibilities as the state Ombudsman. I will then hand over to each of my colleagues.

[10.45 am]

The CHAIRMAN: I assume it will be brief.

Ms O'Donnell: Yes. Very briefly, the Parliamentary Commissioner for Administrative Investigations is an office established under the Parliamentary Commissioner Act. The main role of the Ombudsman is to investigate administrative acts or omissions in state government agencies and local government authorities. Therefore, our jurisdiction is over government departments, statutory authorities, boards and committees, universities, some contractors and certain individual position holders. I make that point because we have different jurisdictions. Our mission is to assist the Parliament of Western Australia to be confident that the public sector of this state is accountable for, and is improving the standard of, administrative decision making, practices and conduct. Complaints must be made in writing by a person directly affected by the action complained of. The matter must have come to the complainant's attention less than 12 months before the complaint was made. The act gives the Ombudsman wide investigative powers, including those of a royal commission. Typically we receive around 1 500 written complaints and around 3 000 telephone inquiries each year. Apart from the reactive role of receiving and investigating complaints, the office also plays an important proactive role through the assistance it provides to the public sector, in improving the standard of complaints handling processes and across a range of matters relating to good administrative practice. Examples of this assistance include a series of information sheets and guidelines on topics such as procedural fairness, redress, conducting administrative investigations and evaluating an agency's complaints handling process. The office also undertakes own-motion investigations into matters of administration, and its reports are tabled in the Parliament. Unlike the CCC, my office does not report to a specific parliamentary committee. However, we meet with the Western Australian Legislative Council Standing Committee on Public Administration, and other committees, as required. That is my office in brief. I will now hand over to my colleague Mr Des Pearson, the Auditor General.

Mr Pearson: In relation to the role of the Auditor General and the Office of the Auditor General, we are the external auditor of the Western Australian public sector. We are different from the traditional auditor who audits only financial statements. In the private sector the financial statements tell you not only "how much" but also "how well" you are doing, because you have a profit and a loss. In the public sector, because you have revenue agencies that have big surpluses and spending agencies that have big deficits, the financial statements tell you the "how much" but not the "how well". That is why public sector auditors have a wide audit mandate to look at controls, compliance, accountability, efficiency and effectiveness. We undertake our audits in that role. We see ourselves as serving the public interest by providing the

Parliament with independent and impartial information on public sector accountability and performance. In doing that we see ourselves as acting as the eyes and ears of the Parliament. We support the Integrity Coordinating Group through collaboration on matters of common interest where there is a crossover across the independent agencies. Our focus is on providing opinions on the financial statements and performance indicators of the approximately 210 agencies that comprise the state public sector. We table reports on about 20 examinations a year. Of those 20 examinations of controls, compliance, efficiency and effectiveness, about 12 are higher level and broader-ranging reviews. We endeavour to do six to eight in-depth examinations that tend to focus more on efficiency and effectiveness.

In terms of actions taken in relation to integrity issues, my office has had a strong push in mainstreaming resource management and external reporting. Rather than seeing them as serial and additional obligations on agencies, we see them as part of the mainstream management. Again, that is where the link back into the Integrity Coordinating Group is important in our view. We are strong supporters of the ongoing education of and advice to senior managers. We see that as both educational and preventive. We believe that if people are well informed, they will be in a better position to make appropriate resource management decisions and maximise the return on taxpayers' dollars. In that respect we value our participation in Integrity Coordinating Group panel discussions at senior integrity officers' forums, because they are a valuable two-way communication mechanism that helps us to rise above our day-to-day issues of undertaking the audit and understanding issues of concern to agencies. We can then assist with the education of agencies, and conversely we can better inform our field staff on how to address issues. To give a particular example, we were happy to contribute funding towards the development of a conflict of interest tool kit, because conflict of interest is a fundamental aspect of integrity, yet although it is such a common term, it is commonly misunderstood. Therefore, we saw that as a very important area, and we are very supportive of that as being one of the early initiatives of the Integrity Coordinating Group.

From the Office of the Auditor General's perspective, we look forward to continuing to work collaboratively to maintain a focus on integrity issues, because we see it as underpinning accountability if people are operating with integrity. In the public sector a lot of work is undertaken on trust, and while we can have instructions, principles and policies, it takes a deeper understanding. I think that in today's public service there is a renewed need for a concentration on equipping current practitioners with that understanding. We certainly encourage and support collaborative research, because with the public sector being large, complex and diverse, it is very easy for people to be marginalised and focus only on their own area so that we get the silo effect. Therefore, we see anything that can contribute to achieving a collaborative and mutual understanding as being very beneficial.

We are strong on providing support for rationalising annual reporting, because that is the area where we come in. There is too much of a tendency that when there is an issue, it is added to the check list and put in the annual report. However, if that is done serially, it loses its impact and effectiveness. The real benefit comes from distilling the need and embedding it in the total management task. Therefore, that is an area in

which we see opportunity for this group. It is also important - probably this is another dimension of that - to get a consistency of message going out to public servants and across our agencies. Probably in many respects we are putting out similar messages, but if the semantics are slightly different, it can confuse the recipients. Therefore, although that is an area that is at a very simple and low level, we feel it is very important.

Finally, we are confident that our participation in the Integrity Coordinating Group does not detract from our independence. We will certainly pay attention to preserving that independent role. We see our participation in the group as being very much complementary to our primary objective. That is a quick overview of the impact as I see it on the audit role. I will now pass to my colleague the Commissioner for Public Sector Standards.

Ms Murray: The Commissioner for Public Sector Standards is also an independent statutory authority. The office was established under the 1994 Public Sector Management Act. As the holder of that office, I am responsible for the general oversight and reporting to Parliament in the areas of human resources and official conduct. I am also responsible for the selection of public sector CEOs. I cover all public sector bodies, including what is commonly referred to as the public service, and the wider public sector. This part under the Public Sector Management Act does not cover local government and the university sector. However, the 2003 Public Interest Disclosure Act increased the commissioner's powers and roles to include responsibility for awareness raising and compliance monitoring with respect to public interest disclosures. That then extended my jurisdiction to local government and the universities. I am required by the Public Sector Management Act and the Public Interest Disclosure - the PID act as we call it - to establish standards setting out minimum standards of merit, equity and probity; to establish codes of ethics setting out minimum standards of conduct and integrity; and, importantly, to monitor compliance with those standards and codes. I also have an assistance role, in addition to that monitoring role, where I am required to assist public sector bodies to develop, amend or repeal their codes of conduct, and to assist them in complying with the HR standards and the public interest disclosure legislation. I report from time to time to Parliament and to the ministers of the Crown responsible for particular public sector bodies on compliance with those principles, codes and standards. I must report annually in a compliance report to each house of Parliament under the Public Sector Management Act and the PID Act. I meet regularly with the Western Australian Legislative Council Standing Committee on Public Administration. That gives the Parliament an opportunity to have an ongoing oversight of what I am doing in my monitoring role.

The CHAIRMAN: What is your definition of "regularly"?

Ms Murray: It is a new committee. I think I have met with it twice. If you want me to be exact, I would have to go back and check the dates.

As Ms O'Donnell mentioned, I was delighted to be the inaugural chair of the ICG. Our office has a strong commitment to working collaboratively with the other member agencies. The ICG met recently to endorse a work program for 2006-07. It reflects the priority of improving coordination and sharing of information between member

agencies. I will now hand back to the Ombudsman, Ms O'Donnell, who can give you a quick briefing of the work program.

Ms O'Donnell: These are the priorities that we have identified for our work program for 2006-07. First - this harks back to what Des mentioned - we will be examining the possibility of consolidating the reporting requirements on integrity matters within the annual reports prepared by agencies. We have recently commenced discussions with relevant agencies to explore the practical implementation of this proposal. At present agencies are required to report on a range of integrity-related issues, such as breaches of the public sector standards. As Des indicated, these tend to be scattered throughout annual reports, and it is not easy to get an overall picture of how well an agency is tracking with its integrity indicators. Presenting the relevant information in a consolidated form would give annual reports a clear focus on integrity and also help raise the profile of integrity issues within agencies. I stress that we are not going to add to the existing reporting requirements. We are trying to give them a bit more meaning and consolidation. That is one of our priorities. Also on our program for the year ahead is a brochure entitled "Taking Action on Integrity Issues". That brochure outlines the various avenues for raising integrity concerns both within agencies and externally. It will help ensure that concerns are addressed in a timely way and through the appropriate channel. I am pleased to say that a brochure was recently distributed to the sector. To make an Ombudsman comment, a map for agencies will be of enormous value. It is a difficult maze to navigate, so this should really assist. Finally, we are proposing to hold two forums for senior integrity officers during the year. The first of these will be held on 24 October, and the speaker will be Hon Justice Michael Kirby. In addition to the above, the members of the ICG will continue to pursue other opportunities for information sharing and coordination of activity where this is appropriate and consistent with the requirements of our respective legislation.

[11.00 am.]

The CHAIRMAN: Thank you very much for that. As I said at the outset, you have the top level of the agencies still involved. You have not been bored and gone off to something else. There are obviously not crayfish or something else at every meeting. Therefore, something is intrinsically working. As a parliamentary committee, we are hoping to get some specifics. How are you benchmarking and providing evidence of how the outputs and devoting all this time to these systems over 18 months are providing benefit to customers? If I may hark back, I have probably met with most of you in the previous Anti-Corruption Commission committee. Our urgent plea then was that residents in Western Australia want a one-stop shop. I think Deirdre made mention of the difficult maze to negotiate. Our electorate offices are probably the first port of call when constituents have a problem and we decide to which one of you the problem is referred. I guess our catchcry has been for a one-stop shop. If somebody were to ring any of your offices with an issue, is there a specific way in which he would get an answer rather than being told that it was not in that office's patch?

Mr Pearson: I relate to your goal of a one-stop shop, but I think the sector is so large, complex and diverse that it is probably unrealistic and that we must really set our sights a step lower. I do not think that much time has been put into it, in the sense that

we meet on a quarterly basis for probably two hours maximum. We have a support group that meets between our meetings, but it would not be more than a monthly meeting, so it is very much a matter of confirmatory and mutual understanding. If I may speak for my office, if somebody phones my office with an issue or a complaint, if we cannot handle it, we endeavour to facilitate their being referred to another agency direct rather than the classical public servant approach of "No, not me - go away." I would argue that the group has been effective to date in fostering a better understanding across our agencies at the level below us. If somebody were to phone my office with an issue that fell into the classification of criminal, it would be referred to the Corruption and Crime Commission; if it were an individual's concern about an administrative decision or someone being affected individually, it would be referred to the Ombudsman; if it were to do with resource management or systemic issues, that would be our responsibility; and if it were to do with public sector employment and equity provisions, it would be referred to the Commissioner for Public Sector Standards. I would argue that it is difficult to measure it, but I personally believe that there is a stronger mutual understanding and that having that second level working is operating at least one or two levels further down in our organisations, so people making representations are being shepherded to the appropriate agency.

The CHAIRMAN: There has been a need for this group which you have set up. Previously there was more of a silo response to customers - for example, somebody walking along the Terrace being told that a department did not deal with their problem. Are you able to say that there has been a cultural change within service delivery or the breaking down of silos?

Ms O'Donnell: I believe unreservedly yes; I have seen a significant improvement. If I may speak for my office, I think that our staff have a much greater understanding of the work of the complementary agencies. It is very important that our starting point is respecting our pieces of legislation and then working from there. That is why I think that this "Taking Action on Integrity Issues" brochure, which the group has worked very hard on to simplify a complex legislative reality, will be of significant added value for members of the sector. I am convinced that it has made a huge difference to our accessibility and our service delivery.

Mr Pearson: I would complement that by saying that is my understanding, too. I am reassured that when my people tell me about a complaint, by the time they brief me on it, they have already spoken to another agency and, in a sense, if there is a transfer, they have the name of the person who will pick it up in the other agency. The other aspect that I have observed is that it has been informative for our own staff. They have a more enlightened view of their confidentiality and secrecy requirements. They have a clear idea of what they cannot disclose and a clear idea of what they can disclose. I think that has been important. If we were to go back 12 or 18 months, there was not a clear idea. They had a total view on what they could not disclose and a very minor view on what they could share. We have opened that up so that now rational and informed sharing is happening.

Hon RAY HALLIGAN: You have identified the two areas of concern. One is internally within each of your agencies and whether you have identified specific people who will be trained or have been trained - I will ask that question in a moment - to make a decision, which is not definitive at this point in time, but by saying that they

think a person's complaint could best be handled by whichever agency. We need that role, but also, I would say more importantly, because the general community out there far outnumber you and the members of your staff, the public are the ones who have the concern, and that is why the chairman was talking about a one-stop shop. If that is not feasible, we need to be comfortable that each of your agencies, no matter which one is contacted initially, will be able to provide some direction for the community at large. I go back to the question of whether you have provided some form of training that satisfies yourselves as to having placed people in your agencies in a position to be able to provide the public with information.

Ms Murray: As I said, I have an assistance role assisting public bodies to comply with two pieces of legislation that I administer. Yes, I have staff whose total role is receiving the phone calls, whether internal to the public sector or from the public. They would have in front of them things like the brochure on taking action on integrity, and either be directing people to that or going through a process themselves of working out where the best place is to assist those people and the right place for those people to take their issue.

The CHAIRMAN: I acknowledge the member for Kingsley, Judy Hughes, who has just arrived. As you are all aware, there is a skills shortage in Western Australia, as there is on parliamentary committees, so Judy is doing double shifts today with another committee.

Mrs J. HUGHES: My apologies. I got caught with another committee.

The CHAIRMAN: Des, if I may cut to the chase with you, you are soon leaving the state after -

Mr Pearson: Fifteen years.

The CHAIRMAN: Yes, I understand you are off to do missionary work in Victoria! They obviously need your skills.

Hon RAY HALLIGAN: They need to be brought up to date!

The CHAIRMAN: You can speak freely, as I think you do anyway. Is government more transparent now? Are members of the public getting a better integrity service or approach to integrity now? Are governments sneakier or cleverer now or are you guys cleverer and never sneaky?

Mr Pearson: You will accuse me of being an economist! The first part of the answer is definitely yes. I would argue that we are better off in relative terms if I look at the Western Australian public sector at 15-year points. It is decidedly in a better position, but at the same time the community is far more complex and more informed, which is more demanding. My personal view is that in relative net terms we are ahead but that there are still challenges. If I may relate back to my own area and financial operations and key performance indicators, 15 years ago there were no key performance indicators. I am not saying that key performance indicators are the be-all and end-all, but they are a lot better than nothing. We did not have them 15 years ago. The agencies said that they were too hard and the auditor said that because they were too hard and the agencies were not going to do them, he could not give an opinion. Now we have opinions and we are having debates about the quality of the performance

indicators. If we go back 15 years, there was cash accounting. With respect to cost accounting professors and lecturers, the best lesson I got was from a plumber who told me it was one for wages, one for overheads and one for profit. Under that formula, we were operating with somewhere between a half and a third of the relevant information. We are now operating on the basis of full accrual accounting and we have more complex but more comprehensive information. Fifteen years ago the financial year started on 1 July and at some time late in August, I think, we brought down a budget. We now bring down a budget in May and debate it and pass it before 1 July so that we have the budget. Our annual reports are far more comprehensive. Our project now is on how to rationalise it, because there is a difference between the volume of data and information. Our challenge is distilling and crystallising it. In that respect I would argue that we are very much more advanced, but we face different challenges because we have so much more information. We are now having a problem consuming the information available, whereas 15 years ago the information just was not there. That is borne out by the legislation that has come through during that time, the role of the Commissioner for the Public Sector Standards and the fact that the Ombudsman's mandate has been expanded and deepened and the CCC has replaced the ACC. Overall we are far better off but our challenges are different.

The CHAIRMAN: Were governments 15 years ago, either intentionally or probably unintentionally, able to hide more information? Are they really more transparent today?

Mr Pearson: Again, my answer would be a net yes. Without being specific, if I go back 15 years, there was far more hankering for a secrecy provision and saying that information was not available. Today's world is more sophisticated and there is access via FOI and things like that. Again I come back to the fact that the challenge has changed. It applies in a number of forums. I give credit to our education system which, although it has problems, I would argue has helped make the most informed and articulate community ever. That is the challenge.

Hon RAY HALLIGAN: I think the chairman mentioned, and you mentioned it yourself, that it is not the quantity, because there is an enormous amount of quantity, but the quality.

Mr Pearson: Our challenges are changing in nature. Another change in the past 15 years is in the use of the Internet. If somebody wants to pay a motor vehicle licence fee or local council rates or whatever, he can get onto a web site. In our community - this is a personal observation - there is probably a growing gap between the haves, who may be measured by ability and resources, and the have-nots. The haves are far better off and the have-nots have probably not moved ahead to a similar degree.

Hon RAY HALLIGAN: If I may go on a slightly different tack. Each of you works under a different piece of legislation, which has been through Parliament and agreed to by the people's representatives. Each of you is audited in some way, whether by committees or otherwise. As a committee concerned about the integrity of the public servants generally, including ourselves because we are servants of the public, our concern would be, and the information I would like to elicit from you, whether you believe the public at large is in fact receiving all that it probably wants, although not necessarily needs. I think this comes back to a question that the chairman asked, which was whether we have improved on accountability and the like. I would suggest

that it would be a simple matter to say, “We are complying with the legislation,” because that in itself may satisfy a number of people, but there may be something in the back of your minds that suggests that we could, and possibly should, go further. Is that the case with any of you?

Mr Pearson: I do not want to take a mortgage on this, but that question prompts a concern of mine that relates to a report that we tabled recently, “Help Wanted: Public Service Workforce Management”. As you were going through the points, in one part my mind was saying the public will never get everything it wants, in a sense, but it is getting a pretty good optimum mix delivered. The issue I have a concern about, and it is probably my resource management background, is that for a decade or more the public service has been running lean for a bit too long. We all know that the maintenance and investment can be deferred, but there comes a point where it has to be got back into balance. My current thinking is we have run lean and mean probably for a while too long and the time is approaching when we need to consciously focus on investing in the sustainability of the sector. That might be a selfish thing, but after 35 years of working in the public sector I do not see the induction and grounding I got happening now. I have not seen it happening for a decade. In my office we have taken on between six and 10 graduates a year since the ‘70s and we still do it, but we are lucky nowadays, two or three years on, to have any graduate left from two or three years ago. It is a far more mobile and flexible work force. As a service we need to sustain the integrity, quality and calibre of the service. I think we need to value it more and invest in it more.

Ms Murray: The genesis of this group came from some research that had been done by Transparency International and Griffith University into something they now do internationally called integrity mapping. It provides a map of what the integrity systems are, country by country. That research has been done state-by-state. Of course, every state in Australia is different because they have held different royal commissions, and different institutions have been set up, and it is an artefact of what happened in the state. If one applied that integrity map that they came up with, the community would see that in WA the four of us have integrity institutions that they would regard as necessary to have a best practice integrity system. They said it needed coordinating, so we took the initiative to coordinate ourselves. They were suggesting some kind of legislative arrangement. There are always problems, which I am sure that the public and the committees see, of overlaps and conflicting bits of legislation. The people doing the integrity mapping research said that was not necessarily a bad thing; it means that things do not fall between the cracks if there is a bit of overlap. We thought it was important that we collaborate to make sure that while institutions are there in the mapping sense, they work collaboratively to make it easier for people to access and for the people who have to do the work in agencies to have this common language in the sense that we are not overlapping in what we do with them and the work we do with them.

The CHAIRMAN: We have had quite a bit to do with Transparency International; I am still a member. The Malaysians promote incredibly. They have gone from being the 44th most corrupt public service in the world to the 46th and the government’s aim is to go to 88. That is, less corruption, and being public about where they are on almost

a non-OBE education scale. Australia does very well with Iceland and everywhere else. You made the point about the different states but the federal FOI legislation in Australia is less transparent than Thailand's and half of Asia and everywhere else and obviously drags down WA and other states. Is there any merit in this sort of ranking system and in making people more aware of how reasonably incorrupt we are as an Australian state?

Ms Murray: I think there is. I use that information and I read avidly what comes from Transparency International, because it is very difficult when there might be some publicity about a particular incident and people make comments about unethical behaviour. If you are the agency trying to illustrate that as a general rule the level of ethics in the public sector is high, it is difficult to measure and to come up with indexes and ranking systems. I find that ranking system very helpful because it is a starting point. Across Australia, as I said, each state has a slightly different integrity map. Some states do not have a corruption prevention-type body. As you will know, it varies. There is no other public sector standards commissioner in any other state who reports independently to Parliament, so I would argue that in Western Australia, Parliament and the public get far more information about whether standards are being adhered to than in any other state, because they do not get independent reports about that.

Hon RAY HALLIGAN: So obviously we would not be able to compare what you do and how effectively you do it with other states.

Ms Murray: There is no other role model.

Hon RAY HALLIGAN: This ranking is just another statistic as far as I'm concerned. Often it is very subjective rather than objective, so it is difficult to make those comparisons. You can do so about your own situation and where you believe you lie. Returning to the line of questioning I raised before, Deirdre would you like to comment on your office and what it provides the general public and whether you believe it could be improved? Do you believe your office could be expanded and that the information available to people is all that it should be?

Ms O'Donnell: I would hope that as an office we are continually refining and improving our processes. To me it is very important to benchmark my performance against my fellow ombudsmen across Australia. In that respect, the collaboration of the ICG is unique, as I said in my comments. That is something I am really proud of and I think Western Australia does very well; others may find it more difficult to do. There is a genuine willingness in the public interest to promote integrity here. That is a precious and very valuable thing. As you know, I am not from here, so I have that perspective. Another perspective that I bring from outside is that Western Australia has again led the country in the focus it has had on getting a standard of complaint handling consistent with the Australian Standard. That was led by the Auditor General and a previous ombudsman, and resulted in a Premier's circular that is a benchmark for Australia. That is a really important service to members of the public and I think that is another area where I would echo Des. I think that is a good thing for the state and it means the state has the potential to be in a better position than other states. If every single director-general is accountable for complying with the Australian Standard on complaint handling and they do, then that is a mechanism that you as parliamentarians can call on as part of your own confidence in processes. That is

another thing that I celebrate and am very proud of, even though I am not part of it. We reinforce it through the work of our office. I suppose another measure of our effectiveness is the number of contacts that we have. Again, they are comparable to other states in terms of our population and our geographic spread - 1 600-odd complaints in writing and 3 000-plus calls. It is nothing like the biggest ombudsman in Australia, which gets 80 000 calls a year, as I always say, but that is in the private sector. Most of the other government sector ombudsmen have around the same orders of magnitude. Again, all of the ombudsmen agree, as Des has said, that the world for the consumer of government services is a far more complex and challenging world. There is no doubt it is much tougher. I use the example of the maze all the time. An example that I have given before is a complaint we have received from someone in the suburbs who has an empty block beside them and a load of asbestos is dumped there. Whose fault is it; how do we get rid of it? It involves the health department and local government, and a whole range of agencies are contacted, such as Environmental Protection. Where do we find the person who will get that service for the citizen? My office plays a role in navigating our way through who is going to help and how we solve the problem. I think we do that better. I also think that in terms of the accessibility of the office, which is the fundamental service delivery, we do a better job.

The CHAIRMAN: To deal quickly with another issue, we have been dealing with a number of you in a situation where somebody comes to a parliamentary committee and makes an allegation, for example, against the police, and says that one of you has confirmed that one of the police did take a machete to their 17 grandchildren or something like that! Rather than saying, "Gee, that's terrible, we had better do something about that", the committee goes back to you to ensure that the complainant's interpretation of your response can be verified. You sent back to us a very good document entitled "The Ombudsman's Redress Guidelines". We are planning to do a very short report to Parliament on that.

Ms O'Donnell: Terrific. I am pleased. That is good.

The CHAIRMAN: It is probably something that needs to be publicised more. One section deals with common excuses to avoid making good. I am aware that these are guidelines only, but we are talking about culture change and so on. It refers to the following common responses as unacceptable reasons to avoid making good - "not legally required to offer redress". That is probably like the Auditor General's "commercial in confidence", which is a catch-all. It says this confuses the issues of lawfulness and fairness. I reckon that about 90 per cent of the complaints we get are from people with an issue which has been dealt with legally the whole way along - it may not be an issue of fairness - but at some point someone has to say that to them, to be honest with them.

Ms O'Donnell: Yes, that in law there is no entitlement, and then it is an issue of the moral obligation, as we call it. That is a very hard cultural thing for agencies in my observation. Originally our redress guidelines were designed for law enforcement agencies - the special constables and the police - who said yes or no. It was black letter law and there was no room to manoeuvre whatsoever. We are trying to get the

culture of “I’m sorry, things have gone wrong”. We had a complaint involving a photographer who had gone over a fence into railway land. The guys had gone after him, ripped off his camera, smashed it to the ground and chased him off. They said, “He shouldn’t have been there trespassing.” We said it was an overreaction. We negotiated a new camera. That is what I think is fair and reasonable in the circumstances of that case, acknowledging everyone’s rights and responsibilities but getting an outcome that brings closure. That was trench warfare for a very long time between the complainant and the agency. It is silly; it is a waste of resources. We are trying to get that culture.

Mrs J. HUGHES: Of course there is the opportunity for your reaching an outcome that is not followed through.

Ms O’Donnell: We may make a recommendation and then if I choose to I can table a report in Parliament. I can name and shame. From my private sector background, a lot of the research shows that it is one of the greatest deterrents.

Mrs J. HUGHES: Have you ever had the need to do that?

Ms O’Donnell: No, I have not. When I have spoken to other committees, I have used the example of there being only four occasions when I have had to negotiate -- where a CEO has said, “I won’t accept your recommendation.” On four of those occasions I met with their minister and on three occasions the minister said, “Yes, I will go with the ombudsman’s recommendation.” The fourth occasion produced the redress guidelines to help people know how to do it in future.

Mrs J. HUGHES: Deirdre, if you send out a recommendation and the CEO picks it up, do you follow up to see whether that recommendation has been implemented?

Ms O’Donnell: Yes, we do.

Mrs J. HUGHES: Of course, they could accept that but leave it -

Ms O’Donnell: Yes. And why would you have confidence? You would not. Increasingly we are going to be presenting more reports to Parliament about significant reports such as the recent DCD, where there are 27 recommendations. I will report to the Parliament on the implementation of those 27 recommendations in six months’ time. That is a very important accountability mechanism.

[11.30 am]

Mrs J. HUGHES: I refer to your integrity coordinating group. In my experience in the community, there seems to be more and more blurring between the state government and private sectors. There seems to be a blurring as our processes become more refined and their processes become more state-like. For instance, there are public and private hospitals combining. Other areas are starting to blur. There are public bodies - not you necessarily - dealing with private industry, such as doctors, surgeons and those types of things. Has there been any thought about bringing someone in from, say, the Office of Health Review? This is something that arises often in some of the dealings that I have with the community. Even though we are sharing space and sharing business, there does not seem to be the crossover between state and private. Has any thought been given to bringing that in to your integrity group?

Ms O’Donnell: No.

Mrs J. HUGHES: Are there many incidents in which people come to you and you then have to tell them to go somewhere else for assistance?

The CHAIRMAN: To the feds, specifically.

Mrs J. HUGHES: Yes, or it could be the private sector as well. It could be the Office of Health Review, another board, legal institutions or justice areas.

Mr Pearson: I might be different in the case of the Auditor General because we deal with government agencies and not the public. A related situation is that in which things are contracted out. We find that working through the agency, we get access to the private sector people and records. On a cooperative and by-arrangement basis, that has worked well for us. We have done a number of audits where there has been a crossover to outsourced divisions, and through liaison and coordination with the agency we have always been able to get the access that we want.

Ms O'Donnell: As the chief complaints are made to me, I should say that the Commissioner for Public Sector Standards, the Office of Health Review, the Commonwealth Ombudsman, the Information Commissioner and me are all co-located, so we are, for all intents and purposes, a one-stop shop at level 12, 44 St Georges Terrace. To provide an example, the greatest number of complaints I receive are from prisoners. Complaints include issues about health matters, commonwealth matters, detention laws and state matters. Our reception can put that complaint directly to the agency, or if a person visits, we can come and meet with them. That is a very good outcome for members of the public who are complaining. That is a good crossover. I have jurisdiction over the Office of Health Review. It is not an integrity agency; nevertheless, through the benefits of co-location, we will share a lot of issues around - for example, how we receive and treat complainants and how accessible we are. Another great benefit is that through outreach programs, we can raise awareness about the range of agencies with which we are co-located. If I am visiting Kununurra, as I will be next month - without you guys there, which is a pity - with the State Records Commission, I will be wearing my Energy Ombudsman's hat, and I will bring the freedom of information, commonwealth, health review and state ombudsman brochures. I will be able to answer questions on behalf of any of those bodies, or direct them to the right people. They will at least have spoken to a person who has visited and is a representative of the service we offer, which is receiving complaints. I think that is a really good thing.

The CHAIRMAN: Deirdre, you have touched on my next area, which is complaints from prisoners. You made a point on complaints about prisons. I will ask you to specify whether you meant family members or prisoners.

Ms O'Donnell: Prisoners.

The CHAIRMAN: I will ask Commissioner Hammond to refrain from answering on this issue, given some other work we are doing. How do prisoners get access to the Ombudsman? Are they getting access?

Ms O'Donnell: Yes, they are. They have a 1800 number which is not recorded. It is promoted in the system. We are monitoring and reviewing how accessible we are to prisoners. I actually have a report on my web site that we completed a couple of

months ago that assesses the accessibility of the Ombudsman for prisoners. We are embarking on a program next year that focuses particularly on indigenous prisoners, because we are concerned that their right to complain is not clearly understood. That will be a special communication channel.

The CHAIRMAN: To return to the 1800 number, is every phone call made by a prisoner out of a prison not subject to being listened to?

Ms O'Donnell: No, and the Ombudsman's number is one of those numbers that is not listened to. Sorry; is that different to the your understanding? My understanding is that calls to the Ombudsman are not recorded.

The CHAIRMAN: Okay. So is that only the 1800 number to the Ombudsman?

Ms O'Donnell: The Ombudsman's number is on the list of numbers that are called. Yes.

Dr Froyland: Can I make an additional comment? There is also the brown envelope in prisons.

Ms O'Donnell: Yes, the confidential ones.

Dr Froyland: The prisoner can put a note into it, it is sealed, and they tick whichever box - Ombudsman, Public Sector Standards, CCC - and that cannot and should not be opened within the system, but comes straight to whichever agency. That is definitely a way of making a complaint confidentially without possibly being listened to.

Ms O'Donnell: There are very strong protections under my act for prisoners to get confidential information to our office.

The CHAIRMAN: Do you liaise with Professor Harding on grievances, or do you deal with grievances directly?

Ms O'Donnell: We have a good channel of communication and we will deal with the individual complaints. If there are systemic issues, such as AIMS transport, quality of food or health care, we cross-refer. When Inspector Harding performs a prisons inspection, where possible one of my staff goes as the Ombudsman's representative to receive complaints under our jurisdiction, and to show the role we can play. We have a collaborative arrangement. Under my act, we have the right to give our data to Professor Harding so that he knows the nature of the complaints when he does an inspection.

The CHAIRMAN: In our discussions today we have clearly not touched on names or operation evidence and so on, which is good. The committee is doing another inquiry at the moment into witness protection. Again, I ask the commissioner not to comment directly. Have any complaints been made by people engaged in or involved with witness protection, to your knowledge?

Ms O'Donnell: Not to my knowledge. If there were, we would refer them to the Corruption and Crime Commission.

Mr Hammond: We have had two, and I think they have been reported to your committee in our most recent correspondence.

The CHAIRMAN: This is a public hearing.

Hon RAY HALLIGAN: I want to talk about a situation that may or may not exist now or into the future. Now that you are working cooperatively - and you talked earlier about contributing towards a conflict of interest tool kit - there will be a cost involved, however minimal it may be, including time foregone for staff and things of that nature. Do you see a point at which your work together may be restricted because of those cost pressures? I am making some assumptions that there are no budgetary funds for information and communications technology. Therefore, you have to contribute funds from your existing budgets towards what you are currently doing, and you know best what it is that you are proposing to do in the future. Do you see some possible constraints upon your working together? If the answer to that is yes, what would you propose doing about it?

Mr Pearson: I basically do not see budget as an issue, because it is very much incidental to our operations. Equally, I see the dividend from it as far outweighing the investment. Professor Stanley made a quote at a forum I recently attended that rang true with me. She was heralding an achievement and she said that she never had the budget for it, but she had the will. I think that is what we are talking about here. It is cooperative collaboration.

Mr Hammond: And it is part of our core business.

Mr Pearson: Yes.

Ms O'Donnell: Integrity. Exactly.

Hon RAY HALLIGAN: That clarifies that area, provided you can answer this last question. Will it not interfere with your individual responsibilities?

Mr Pearson: No.

Ms O'Donnell: No.

The CHAIRMAN: I wish to touch on the area of the Warden's Court. Western Australians are chucking \$50 down to lodge a plaint over somebody's mining site all over Western Australia. We have Warden's Court hearings all the time. Have any of you ever had any complaints regarding mining issues, plainting, or the Warden's Court?

Mr Pearson: To my knowledge, I have never had a complaint about it, but we did a performance examination of the management and regulation of mining leases and found a range of inconsistencies across a range of different courts and approaches, as well as the enforcement of conditions applicable to those licences and permits. We have done a follow-up audit and found a much-improved situation.

The CHAIRMAN: What date or year was that, roughly? Which century?

Mr Pearson: I am pretty sure it was this century! At a guess, 2000, and the follow-up was around 2003 or 2004.

The CHAIRMAN: I might follow that up with you.

Ms O'Donnell: It is out of jurisdiction for me.

The CHAIRMAN: Commissioner, does anyone from the Corruption and Crime Commission wish to comment on that issue?

Mr Hammond: I do not think we have come across it. The Mining Act was something I avoided in practise and I do not recall being caught up with it in the past few years.

The CHAIRMAN: Are there any final issues members would like to explore? We will probably make a short report to Parliament on this meeting. I think a lot of good has come out of it and a lot of other avenues for the committee. Without pre-empting any recommendation, there is the issue to consider of engaging Transparency International or getting research that is actually done on a state basis rather than a national basis. I guess I am pre-empting that I will be proposing to the committee that we recommend that either government or somebody with proper resourcing, of course, engages in that sort of analysis. I want to check that somebody has not already started that process or the University of Western Australia Crime Research Centre -

Dr Froyland: As director of corruption prevention, education and research, I comment that I do not see us as a commission or us as a coordinating group having responsibility for research other than if it is very relevant and answering our particular needs. But when there is an opportunity to work with a research body like a university, particularly if it is an opportunity in which they can get federal funding, we are certainly open to that. I have been talking to all the universities during my time as director about the fact that if there is relevant research for which they can get federal funding, we want to talk to them about it. We would do that where it was relevant for all the agencies or for our own particular needs. However, it does have to be relevant. We would need to monitor that. Right now, some of my team members are talking to some of the Auditor General's team about an approach from one of the universities to conduct some research into corruption that they are interested in doing. We are very open to it if it means increasing our resource base without coming back to ask for more money.

Hon RAY HALLIGAN: You emphasise "if federal funding was available". What if you believe the research to be imperative, and federal funding was not available?

Dr Froyland: It is my responsibility to build it into my budget requests and to pressure our executive director and commissioner to make that money available.

The CHAIRMAN: If Western Australia really is doing so much better, the feds will probably not want to see a comparative basis with the other states. This committee is on a productivity bonus as well! The committee requests that when you receive a copy of today's Hansard transcript, can you return any corrections within five days, if not sooner, rather than the Parliament's 10-day memorandum of understanding from the days of horse and cart! Thank you very much for your attendance today. I declare the hearing closed.

Hearing concluded at 11.45 am
