



**THIRTY-NINTH PARLIAMENT**

**REPORT 27**

**STANDING COMMITTEE ON PUBLIC  
ADMINISTRATION**

**GOVERNMENT RESPONSE TO REPORT 26:  
TRANSPORT OF PERSONS IN CUSTODY**

Presented by Hon Liz Behjat MLC (Chairman)

September 2016

## STANDING COMMITTEE ON PUBLIC ADMINISTRATION

### Date first appointed:

17 August 2005

### Terms of Reference:

The following is an extract from Schedule 1 of the Legislative Council Standing Orders:

#### **‘5. Public Administration Committee**

5.1 A *Public Administration Committee* is established.

5.2 The Committee consists of 5 Members.

5.3 The functions of the Committee are to —

(a) inquire into and report on —

(i) the structure, efficiency and effectiveness of the system of public administration;

(ii) the extent to which the principles of procedural fairness are embodied in any practice or procedure applied in decision making;

(iii) the existence, adequacy, or availability, of merit and judicial review of administrative acts or decisions;

(iv) any Bill or other matter relating to the foregoing functions referred by the Council;

and

(b) consult regularly with the Parliamentary Commissioner for Administrative Investigations, the Public Sector Standards Commissioner, the Information Commissioner, the Inspector of Custodial Services, and any similar officer.

5.4 The Committee is not to make inquiry with respect to —

(a) the constitution, functions or operations of the Executive Council;

(b) the Governor’s Establishment;

(c) the constitution and administration of Parliament;

(d) the judiciary;

(e) a decision made by a person acting judicially;

(f) a decision made by a person to exercise, or not exercise, a power of arrest or detention; or

(g) the merits of a particular case or grievance that is not received as a petition.’

### Members as at the time of this inquiry:

Hon Liz Behjat MLC (Chair)

Hon Darren West MLC (Deputy Chair)

Hon Nigel Hallett MLC

Hon Jacqui Boydell MLC

Hon Amber-Jade Sanderson MLC

### Staff as at the time of this inquiry:

Felicity Mackie (Advisory Officer (Legal))

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## **Government Response**

This Report is subject to Standing Order 191(1):

*Where a report recommends action by, or seeks a response from, the Government, the responsible Minister or the Leader of the House shall provide its response to the Council within not more than 2 months or at the earliest opportunity after that time if the Council is adjourned or in recess.*

The two-month period commences on the date of tabling.



## REPORT OF THE STANDING COMMITTEE ON PUBLIC ADMINISTRATION

### REPORT 27: GOVERNMENT RESPONSE TO REPORT 26: TRANSPORT OF PERSONS IN CUSTODY

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#### 1 INTRODUCTION

- 1.1 On 21 June 2016 the Standing Committee on Public Administration (Committee) tabled in the Legislative Council *Report 26 – Transport of Persons in Custody* (Report 26).
- 1.2 The Government Response to Report 26, required by Legislative Council Standing Order 191(1), tabled on 25 August 2016, is attached at **Appendix 1**.<sup>1</sup>

#### 2 INQUIRY INTO THE TRANSPORT OF PERSONS IN CUSTODY

- 2.1 On 26 November 2014 the Committee resolved to initiate an own motion inquiry into the Transport of Persons in Custody (Inquiry). The Terms of Reference for the Inquiry are set out in Report 26.
- 2.2 The Inquiry was thorough and extensive. The Committee received a large amount of evidence during a number of public and private hearings and conducted site visits to several Perth prisons, the Perth Watch House in Northbridge and the District and Supreme Courts.
- 2.3 During the Inquiry, Hon Joe Francis MLA, Minister for Corrective Services, (Minister), advised Parliament that the current Court Security and Custodial Services Contract (Contract) would not be rolled over, and that tender documents would be released ‘*in the coming months*’.<sup>2</sup>
- 2.4 The Committee resolved to continue the Inquiry in order to inform Parliament of the outcome of its investigations and of relevant facts and gaps identified in the Contract. The Committee intended that the report would assist the decision makers in the re-tender process.
- 2.5 During the inquiry, the Committee was frustrated at the continual refusal by the Minister to provide documents central to the Inquiry despite numerous requests and assurances from the Committee as to the safe custody and use of the information in those documents.<sup>3</sup>

#### 3 GOVERNMENT RESPONSE

- 3.1 The Government Response to a Committee report is intended to address, in a specific and substantive manner, the issues raised in the recommendations. The Government

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<sup>1</sup> Tabled Paper 4428, Legislative Council, 25 August 2016.

<sup>2</sup> Hon Joe Francis MLA, Minister for Corrective Services, Western Australia, Legislative Assembly, *Parliamentary Debates (Hansard)*, 16 June 2015, p 4349.

<sup>3</sup> Western Australia, Legislative Council, Standing Committee on Public Administration, Report 26, *Transport of Persons in Custody*, 21 June 2016, paragraphs 2.33 to 2.46.

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Response should explain what action, if any, will be taken as a result of each recommendation and if no action is to be taken, why not.

- 3.2 The Government Response to Report 26 addresses none of the substantive issues raised in the recommendations. It consists of vague and general comments. For example, in Recommendation 3 the Committee recommended that *'the Minister advise how, in future contracts, this significant risk [contract management resourcing] will be managed'*. The trite response failed to explain how this risk would be managed.
- 3.3 The Government Response is also deficient as it fails to articulate the Government's position in relation to all ten recommendations; that is, whether the recommendations are supported, partly supported, not supported or supported in principle.
- 3.4 The Committee is of the view that the Minister treated the Committee with disdain and disregard during its Inquiry in relation to the non-provision of information, and the Committee has again been treated in this manner by the tabling of this Government Response.

#### 4 RECOMMENDATION

**Recommendation 1: The Committee recommends that the Leader of the House table a further Government Response to *Report 26: Transport of Persons in Custody* which clearly articulates the Government's position in relation to each recommendation.**



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**Hon Liz Behjat MLC**  
**Chairman**

**13 September 2016**

# APPENDIX 1

## GOVERNMENT RESPONSE

**MINISTER FOR CORRECTIVE SERVICES — RESPONSE TO STANDING COMMITTEE ON PUBLIC ADMINISTRATION  
REPORT INTO THE TRANSPORT OF PERSONS IN CUSTODY**

Recommendation	Response
<p><b>Public Sector Comparator</b>  <i>Recommendation 1: The Committee recommends that in its response to this report the Government provide to the Legislative Council the Public Sector Comparator in order to verify the evidence given by the Commissioner.</i></p>	<p>The tender process for the Court Security and Custodial Services (CS&amp;CS) contract is currently underway. As the Public Sector Comparator (PSC) is commercially sensitive information, I remain of the view that disclosure of the PSC could prejudice the State's position in relation to the re-tender. The State may not obtain the optimal tender price, and its ability to deliver cost effective correctional services to the community may be compromised. I decline the recommendation to provide a copy of the PSC to the Legislative Council.</p>
<p><b>Office of the Inspector of Custodial Services</b>  <i>Recommendation 2: The Committee recommends that the Inspector of Custodial Services Act 2003 be amended to require that the Office of the Inspector of Custodial Services conduct regular reviews and make recommendations regarding all aspects of transport of persons in custody.</i></p>	<p>The Office of the Inspector of Custodial Services (OICS) regularly considers the transport of persons in custody as part of thematic reviews and wider reports on prisons and custodial services. OICS concluded an inspection of services covered by the <i>Court Security and Custodial Services Act 1999</i>, including the transport of persons in custody, in early 2016 and is expected to report shortly.</p>
<p><b>Governance and Contract Management</b>  <i>Recommendation 3: The Committee recommends that the Minister advise how, in future contracts, this significant risk [contract management resourcing] will be managed.</i></p>	<p>The Department of Corrective Services has a suitably resourced and experienced contract management team overseeing the delivery of court security and custodial services. The team is supported by the Department's risk and assurance frameworks.</p> <p>Risk management and effective governance will continue to be a focus for the Department's management of future contracts.</p>

Recommendation	Response
<p><i>Recommendation 7: The Committee recommends that each of the Directors General Governance Group and the Senior Officers Group meet regularly to ensure, in regard to any future contract, better communication and clarity for stakeholders.</i></p>	<p>The Directors General Governance Group (DGGG) last met in September 2015. The tender process commenced shortly after this, and is being led by a high level Project Steering Committee. For this reason the DGGG has not met since this time. It is anticipated that the group will reconvene after services commence under the new contract. The CS&amp;CS Board, comprising the CEO (or delegate) of each client agency of the contract) and contractor representative, continues to meet on strategic and policy issues on a quarterly basis.</p> <p>The Senior Officers Group has met twice in 2016, and monthly meetings have been scheduled for this group. This group focusses on interagency operational matters and provides an effective forum for communication between client agencies. Effective governance arrangements will continue to be a priority for the new CS&amp;CS contract.</p>
<p><b>Scope and Operation of the Contract</b>  <i>Recommendation 4: The Committee recommends that any future contract address the issues identified by the Committee regarding the multiple handling of persons in custody with a view to streamlining the current inefficient process.</i></p> <p><i>Recommendation 5: The Committee recommends that any future contract address the issues identified by the Committee regarding prisoner transport vehicles that arrive early to court. These vehicles should be cleared for entry immediately rather than having to wait outside the sally port.</i></p>	<p>As the tender process is still underway, the Government is unable to comment on specific changes to services provided under the contract.</p> <p>It is expected that the new contract will deliver increased efficiencies and improvements to the delivery of CS&amp;CS services. The CS&amp;CS contract is not intended to cover the entire scope of court security and custodial required in the state, rather it is intended to strike a balance between the delivery of these services to the community and achieving a value for money outcome for the state. Where any issues identified in the above recommendations are not addressed through this tender process, they may be considered as part of future contracts.</p>

Recommendation	Response
<p><i>Recommendation 6: The Committee recommends that any future contract should make greater allowance for transfers to occur within the scope of the contract.</i></p> <p><i>Recommendation 8: The Committee recommends that any future contract address the current gaps regarding the transfer of persons in custody to and from Rockingham.</i></p> <p><i>Recommendation 10: The Committee recommends that any future contract address the significant gaps outlined in this report.</i></p>	
<p><b>Magistrates Court at the Northbridge Police Complex</b></p> <p><i>Recommendation 9: The Committee recommends that the Magistrates Court at the Northbridge Police Complex be funded to operate seven days per week.</i></p>	<p>The funding and operation of the Magistrates Court at the Northbridge Police Complex is a matter for consideration by the Attorney General.</p>