

A PAC BY ANY OTHER NAME STILL SMELLS A RAT: THE SOUTH AUSTRALIAN ECONOMIC AND FINANCE COMMITTEE

Different models for PACs in reviewing the work of auditors. How to best “add value” to the work of auditors

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Although this is my first experience representing the Economic and Finance Committee as Presiding Member at an ACPAC conference, I am reliably informed by my Secretary that telling the audience that the South Australian Economic and Finance Committee (EFC) is not a Public Accounts Committee as most of the rest of the country (and those other jurisdictions represented here) knows it is a time honoured tradition.

And while reciting the Economic and Finance Committee creed might normally be just a ritual at these conferences for those in my position, today it forms the basis of my paper and I would like to explain how it operates – particularly with respect to the Committee’s relationship with the Auditor-General.

In essence, this paper provides a snapshot of the relationship between the Auditor-General and the Economic and Finance Committee; a relationship that may not, on the face of it, seem very different from many other such arrangements but for South Australia constitutes a further enhancement of public sector oversight.

The *Parliamentary Committees Act 1991* establishes the Economic and Finance Committee and outlines its functions and powers. These functions are most broadly articulated in section 6 (a) (i) which states the Committee can inquire into “any matter concerned with finance or economic development”. The rest of the section elaborates this basic principle and also outlines the three specific areas the Committee is precluded from inquiring into – 1) Parliament, 2) Local Government and 3) Statutory Authorities.

Essentially the Act gives the Committee a free hand to inquire into any matter touching on economic or financial development, regulation, efficiency, organisation, operation or indeed the existence of public funded bodies, officers or instrumentalities.

There are certain specific statutory oversight functions imposed on the Committee by particular Acts regarding particular public finance processes (such as receiving proposals for certain levies that are imposed annually), but generally the Committee’s brief is a wide and varied one and for the most part consists of self-referred inquiries.

For a body nominally occupying the role of a public accounts committee this is a wide matrix of responsibilities and exactly where the Auditor-General fits in is, on face value, rather vague.

The *Public Finance and Audit Act 1987*, which establishes the office of Auditor-General, provides at section 36 (b) that the Auditor-General’s annual report may contain “any matter that should, in the opinion of the Auditor-General, be brought to

the attention of Parliament and the Government". This has been, rightly in my view, interpreted (including by the recently retired Auditor-General) to include bringing matters to the attention of the Economic and Finance Committee as the instrument of the Parliament best placed to further explore and inquire into matters the Auditor-General may have identified in his report. This is acknowledged on the Auditor-General's Office website, which states:

An effective working relationship exists between the Economic and Finance Committee and the Auditor-General's Department.

The Auditor-General and senior Audit officers meet with the Economic and Finance Committee to discuss issues which relate to audit matters raised by this department and issues/matters of interest to the Committee.

Contact with other Committees of the Parliament has been on an 'as needs' basis.

But while this relationship is acknowledged in theory, there are no formal processes – legislative or otherwise – that mandate a specific and formal relationship between the Committee and the Auditor-General.

Further, while the theory is acknowledged the practice has until recently been periodic, at times irregular, or just restricted to particular and often politically charged matters.

In 2006 the current Economic and Finance Committee resolved to establish an if not more formal then at least a more responsive relationship with the Auditor-General's Office, which in turn was happy to co-operate in the venture. The result has been a series of meetings between the Committee, the Auditor-General and senior audit officers to discuss matters of note in the Auditor-General's annual report.

This process culminated in the appearance of the Auditor-General before the Committee in December of last year to provide evidence on a number of matters arising from his 2006 Annual Report. Of these, the Auditor's remarks regarding the Director of Public Prosecutions' conduct with respect to an ongoing audit investigation into Police DNA handling processes (as well as other processes within the DPP's Office) were most widely reported, but this meeting also touched on the potential shortfalls in corporate and financial governance within Local Government and the Auditor's opinions on the potential problems associated with Public Private Partnerships as a strategy for financing major capital works programs. Both these latter issues (restrictions in the Committee's establishing Act regarding Local Government notwithstanding) are live matters within the Committee and may inform future inquiries.

While this process may not seem terribly revolutionary to other Committees of a more traditional, and technical, public accounts nature – for the Economic and Finance Committee it represents a “different model” from the more free-form and perhaps unstructured approach of previous years where inquiries were usually self-referred on the basis of individual or membership concerns about matters that were not necessarily, or at all, related to the Auditor-General’s reports.

This is not to say that the Committee is seeking to forgo the flexibility afforded by its wide range of powers and potential areas of interest. The Economic and Finance Committee, as its title indicates, is more often than not as focused on matters of policy, administration and operation – if not more – than it is on technical, finance-

centred investigations of agency accounts. The Committee's creation in the early 1990s came at the direct expense of the previous Public Accounts Committee so its broader, policy focus is central to its existence.

In this respect the Committee's newly established protocol with the Auditor-General's Office has – and seeks to remain – focused on matters broader than just technical accounting inquiries into where and how specific funds were treated, described and expended. Rather, the Committee's discussions with the Auditor-General have reflected the Committee's wider approach to its task and the Auditor-General's contributions have similarly ranged across matters from the specific and technical to the broader implications of a range of issues for public finance and administration.

In his appearance before the Committee in December 2006, the Auditor outlined his perspective on the role, nature and indeed definition of "audit" as understood in the public sector, under the powers granted to him and with respect to the role he plays in the South Australian context. It is worth quoting in some detail the Auditor's evidence as it helps explain the role the Committee sees itself playing when acting in co-operation with the Auditor:

. The audit process requires us to do two things. One is to give an opinion on the financial statement (that is called the financial attest opinion) and the second is to give an opinion on the adequacy of the controls associated with the expenditure of public moneys, the revenue being received by the Crown, the sale of public assets and the incurring of liabilities by public authorities (Crown agencies). In that context, we are required to give an opinion as to whether the transactions of government with respect to those financial transactions have occurred in a context where there can be a reasonable assurance of propriety and lawfulness of those transactions.

Transactions do not take place in a vacuum. There is the conduct of public officials and, in examining whether or not those financial transactions of government are consistent with propriety and lawfulness, it is important that we look at the conduct associated with public officers. [...] In addition to that, we have the provision in the Public Finance and Audit Act which provides that the Auditor-General can bring to the attention of the government and the parliament matters that in his opinion he believes it is important to do so.

[...]. We certainly give opinions on the financial statements. We are mandated and required to give an opinion on the adequacy of controls and, within that context, the propriety and the lawfulness within which government processes have occurred; and we are mandated, if we see it necessary, to be able to bring to the attention of the government and the parliament matters that we believe are important. In addition to that, there is the capacity of the Auditor-General to opine on the efficiency and the economy with which public authorities undertake their activities.

So that is our ambit at this point in time. That is the mandate that we operate under.

(Ken MacPherson, Auditor-General, Economic and Finance Committee, 6 December 2006)

This wider articulation of the audit process complements the Committee's perception of its own powers with respect to investigating matters of economic and financial importance. While the technical financial element of the Committee's functions remains important, the Committee , like the Auditor-General, sees itself - quite correctly given the broad remit provided in the *Parliamentary Committees Act* – as being able to investigate wider contextual issues within which specific transactions occur.

The importance of this understanding of the audit role – and the complementary role of the Committee – is underscored by the Auditor-General's statement to the Committee about his place within the full matrix of public sector accountability in South Australia:

we do not have [...] an ICAC or a CJC, or what have you.

There is none of that. We are the default mechanism

(Ken MacPherson, Auditor-General, Economic and Finance Committee, 6 December 2006)

In light of such comments, the Committee's protocols with the Auditor-General's Office reflect its willingness to be involved in the identification and investigation of a wide range of issues pertinent to not just creating an effective public finance environment but a wider administrative accountability.

In essence, the protocols established by the Committee with the Auditor-General's office create a linkage between the Parliament's most powerful oversight committee and the public sector's primary overseer (in not just financial but administrative and process matters on the Auditor-General's reading of his role) – a linkage that in practical terms enables the two entities to combine and/or supplement their resources and follow through on identified issues of concern or interest.

This is not to say that the relationship – notwithstanding the Auditor-General's statements about the oversight “gap” that his office fills in the absence of an ICAC or CCC – has either the powers or even the reach (in investigative or enforcement terms) of these and other specially created investigative bodies in other places – or is indeed intended to perform such a role; it isn't. (And the Auditor-General observed that the need or otherwise for such a body in South Australia was not the question at issue) Rather, this arrangement seeks to operate as a broad accountability mechanism – utilising the combined capacities of the Auditor-General's office and the Economic and Finance Committee - with a range of interests wider than a narrow focus on the strict compliance and technical aspects of public sector finances.

As I said, to many delegates here the idea of a PAC-style committee working co-operatively with an Auditor-General is the garden variety model on which most PACs operate. But in the South Australian context, the synchronization of the two entities – through a co-operative will to act rather than mandating regulations or legislation – needs to be understood in concert with the broader role the parties see themselves as having. Roles which, in combination, aim to provide a much improved image of the condition and operation of public sector governance and operations in our state.