



Mark Speakman
Attorney General

A5356690

Mr David Blunt
Clerk of the Parliaments
Parliament House
Macquarie Street
SYDNEY NSW 2000

Dear Mr Blunt

Further Government response to a report of the Public Accountability Committee

I refer to the 5 August 2021 letter to you from the then Special Minister of State indicating that the NSW Government would provide a substantive Government response to the report of the Public Accountability Committee (**Committee**) entitled *Budget process for independent oversight bodies and the Parliament of New South Wales Final Report* (Report 7, 5 February 2021) following further consultation with integrity agencies.

I am writing to confirm that, following careful consideration of the Committee's recommendations and the recommendations of the Auditor-General in her October 2020 report entitled *The effectiveness of the financial arrangements and management practices in four integrity agencies*, the NSW Government will implement new funding arrangements to safeguard the independence of NSW integrity agencies.

The following funding model will be implemented as part of the NSW Budget 2022-23:

- The Audit Office of NSW, Independent Commission Against Corruption, Law Enforcement Conduct Commission, NSW Electoral Commission, and the NSW Ombudsman (**collectively, integrity agencies**) will be removed from Premier and Cabinet cluster financial management processes.
- Efficiency dividends will not be imposed on integrity agencies.
- A specialist integrity agency unit will be established within NSW Treasury to manage representations for budget and supplementary funding and provide the integrity agencies with information on funding outcomes.
- Integrity agencies will be invited to review Treasury's advice to the Expenditure Review Committee of Cabinet (**ERC**) on integrity agency funding bids and provide their own advice directly to ERC.
- The integrity agencies, and the relevant Parliamentary oversight committees, will be provided with funding decisions in writing, and, if relevant, reasons for variation from a funding bid, to enhance transparency in decision making.
- Annual Appropriation Acts will include contingency funding for the integrity agencies, in addition to appropriations for the ordinary services of the integrity agencies. Expenditure

of contingency funds may be approved by the Treasurer on request, with the request and response also provided to the relevant Parliamentary oversight committee.

A Treasurer's Direction, drafted in consultation with the integrity agencies, will be issued codifying the new arrangements.

I enclose a table providing the Government response to each of the Committee's recommendations.

I have separately written to the Auditor-General to advise her of the revised arrangements that will be implemented in response to both her report and the Committee's report. I enclose a copy of that correspondence with this letter.

I would be grateful if you could arrange for this letter, and the enclosed documents, to be tabled as a further Government response to the Committee's report.


Yours sincerely

Mark Speakman

09/05/2022

Encl.

1. Table providing the Government response to the recommendation of the final report of the Legislative Council Public Accountability Committee entitled *Budget process for independent oversight bodies and the Parliament of New South Wales* (February 2021).
2. Government response to the special report of the Auditor General entitled *The effectiveness of the financial arrangements and management practices in four integrity agencies* (October 2020).

Received at 3.00pm
Monday 9 May 2022


Government response to the final report of the Legislative Council Public Accountability Committee entitled *Budget process for independent oversight bodies and the Parliament of New South Wales* (February 2021)

No	Public Accountability Committee Recommendation	Government Response
1	<p>That the parliamentary oversight committees for the NSW Independent Commission Against Corruption, the Law Enforcement Conduct Commission, the NSW Ombudsman and the NSW Electoral Commission review the annual budget submissions of each agency and make recommendations as to the funding priorities.</p>	<p style="text-align: center;">Not accepted</p> <p>The NSW Government will implement an alternative approach, consistent with the principles recommended by the Auditor-General in her October 2020 report entitled <i>The effectiveness of the financial arrangements and management practices in four integrity agencies</i> (Auditor-General's Report), to safeguard the independence of integrity agencies.</p> <p>A specialist unit within NSW Treasury, trained on the unique functions of the integrity agencies and their statutory frameworks, will ensure that the independence of the integrity agencies is not compromised during the budget process. Integrity agencies will be invited to review Treasury's advice to the Expenditure Review Committee of Cabinet (ERC) on integrity agency funding bids and provide their own advice to ERC.</p> <p>The integrity agencies, and the relevant Parliamentary oversight committees, will be provided with funding decisions in writing, and, if relevant, reasons for variation from a funding bid, to enhance transparency in decision making.</p> <p>It is not proposed that Parliamentary oversight committees review budget bids or advise Government prior to these decisions being made, to preserve the principles of Cabinet confidentiality and responsible government.</p>

No	Public Accountability Committee Recommendation	Government Response
2	<p>That the annual budgets for the NSW Independent Commission Against Corruption, the Law Enforcement Conduct Commission, the NSW Ombudsman and the NSW Electoral Commission include a set contingency fund to address unbudgeted financial demands, with access to the funds governed by prescribed criteria and approval of the relevant parliamentary oversight committee.</p>	<p style="text-align: center;">Accepted</p> <p>Annual Appropriation Acts will include contingency funding for the integrity agencies, in addition to appropriations for the ordinary services of the integrity agencies.</p> <p>Expenditure of contingency funds may be approved by the Treasurer on request, with the request and response also provided to the relevant Parliamentary oversight committee. The new Treasurer's Direction will set out how requests for contingency funding are to be assessed.</p>
3	<p>That the NSW Independent Commission Against Corruption, the Law Enforcement Conduct Commission, the NSW Ombudsman and the NSW Electoral Commission be directly allocated their annual funding through the Appropriation legislation, rather than the funding being allocated to the relevant Minister, so they are not subject to reductions in funding during the financial year.</p>	<p style="text-align: center;">Implemented using alternative means</p> <p>The appropriation of funds to the Minister of the Crown, who delegates expenditure to the relevant entity, is an important aspect of the principle of responsible government in NSW.</p> <p>However, the NSW Government has agreed that efficiency dividends will not be imposed on integrity agencies, to achieve the intent of this recommendation.</p>
4	<p>That the NSW Government remove the NSW Independent Commission Against Corruption, the Law Enforcement Conduct Commission, the NSW Ombudsman and the NSW Electoral Commission from the Premier and Cabinet cluster.</p>	<p style="text-align: center;">Not accepted</p> <p>Integrity agencies will remain in the Premier and Cabinet cluster as their enabling legislation will continue to be administered by the Premier.</p> <p>Consistent with recommendation 3 of the Auditor-General's report, integrity agencies will be removed from Premier and Cabinet cluster financial management processes.</p>

No	Public Accountability Committee Recommendation	Government Response
5	<p>That the Legislative Council refer the following terms of reference to the Joint Standing Committee on Electoral Matters:</p> <ul style="list-style-type: none"> That the Joint Standing Committee on Electoral Matters inquire into and report on the adequacy of the funding allocation of the NSW Electoral Commission for the 2023 election, in particular taking into account the latest advice around issues of electoral integrity arising from foreign interference in elections. 	<p>Not directed to the Government</p>
6	<p>That the Parliament of New South Wales review and ensure the provision of adequate staffing and resourcing to Hansard services.</p>	<p>Not directed to the Government</p>
7	<p>That the NSW Government work with the Legislature in adopting the United Kingdom model of funding for the Parliament of New South Wales.</p>	<p>Noted for further consideration</p> <p>The new funding arrangement relates to the funding of integrity agencies in response to the recommendations of the Auditor-General's report, and do not deal with the funding arrangements for Parliament.</p> <p>The Government will carefully consider any further recommendations regarding this issue or representations to the Government made by the Legislature.</p>
8	<p>That the Legislative Council designate the Public Accountability Committee to review the Department of the Legislative Council's annual budget submission and give directions as to the funding priorities of the Legislative Council, as well as any requests for supplementary funding.</p>	<p>Not directed to the Government</p>

No	Public Accountability Committee Recommendation	Government Response
9	That the Legislative Council designate the Public Accountability Committee to review the Department of the Parliamentary Services' annual budget submission, in collaboration with any committee appointed by the Legislative Assembly for the same purpose, and give directions as to the funding priorities of the Department of Parliamentary Services, as well as any requests for supplementary funding.	Not directed to the Government
10	That following further consultation by the President with the Speaker and Premier, the Legislative Council seek the concurrence of the Legislative Assembly in the appointment either of a joint committee or alternatively of two separate committees of the two Houses meeting together for the further consideration of an appropriate funding model for the Parliament of New South Wales as a whole, based on one of the models in place in either the United Kingdom or Canada	Not directed to the Government
11	That the Legislative Council designate the Public Accountability Committee to review any budget bids by the NSW Audit Office, in collaboration with the Public Accounts Committee of the Legislative Assembly, and make recommendations to the Parliament as to the funding priorities of the Audit Office.	Not directed to the Government
12	That annual funding for the NSW Audit Office's performance audits be provided as a separate amount in the Appropriation (Parliament) Bill rather than as a government contribution.	Not accepted See the response to recommendation 3.
13	That the NSW Government remove the NSW Audit Office from the Premier and Cabinet cluster.	Not accepted See the response to recommendation 4.

Implementation of the recommendations of the Auditor-General's report entitled *The effectiveness of the financial arrangements and management practices in four integrity agencies* (October 2020)

Auditor-General Recommendation	Implementation
<p style="text-align: center;">Recommendation 1</p> <p>Acknowledging that the government of the day is responsible for the financial management of the state, NSW Treasury and DPC should implement a funding model for the integrity agencies that addresses potential threats to their independence while ensuring their accountability. This should be based on the following principles:</p> <ul style="list-style-type: none"> • The integrity agencies are required to demonstrate their accountability as prudent managers of their financial resources. • Parliament's role in the budget process should be expanded to ensure Cabinet is provided with more independent advice on the funding requirements for the integrity agencies. • There should be transparency to Parliament and the relevant agency for decisions made about funding for the integrity agencies. • There should be structured oversight by Parliament of the performance and financial management of the integrity agencies. 	<p style="text-align: center;">Partially implemented</p> <p><u>Addressing threats to independence</u></p> <p>A charter of independence issued under a Treasurer's Direction will safeguard the independence of integrity agencies. A specialist unit within NSW Treasury, trained on the unique functions of the integrity agencies, will ensure that the independence of the integrity agencies is not compromised during the budget process.</p> <p><u>Advice to Cabinet</u></p> <p>Integrity agencies will be invited to review Treasury's advice to the Expenditure Review Committee of Cabinet (ERC) on integrity agency funding bids and provide their own advice to ERC.</p> <p>Parliamentary oversight committees will not review budget bids or advise Government prior to funding decisions being made to preserve the principles of Cabinet confidentiality and responsible government.</p> <p><u>Transparency</u></p> <p>The integrity agencies, and the relevant Parliamentary oversight committees, will be provided with funding decisions in writing, and, if relevant, reasons for variation from a funding bid.</p> <p><u>Accountability and oversight</u></p> <p>The oversight provided by Parliament over the financial management of integrity agencies is a matter for the relevant Parliamentary oversight committees to consider.</p>

Auditor-General Recommendation	Implementation
<p style="text-align: center;">Recommendation 2</p> <p>NSW Treasury and DPC should reassess whether the process used to apply efficiency dividends to the integrity agencies is consistent with appropriation legislation and the independence of the integrity agencies.</p>	<p style="text-align: center;">Implemented</p> <p>Efficiency dividends will not be imposed on integrity agencies.</p>
<p style="text-align: center;">Recommendation 3</p> <p>NSW Treasury and DPC should ensure that the use of cluster-based financial management arrangements does not diminish the independence of the integrity agencies and is consistent with the requirements of appropriation acts and other relevant legislation. This includes ensuring that:</p> <ul style="list-style-type: none"> • the provision of additional funding to the integrity agencies outside the budget process is consistent with appropriation legislation and includes sufficient safeguards to protect the independence of the integrity agencies • any request for the integrity agencies to report on activities and outcomes as a part of outcome budgeting reforms is consistent with their independence. 	<p style="text-align: center;">Implemented</p> <p>Integrity agencies will be removed from Premier and Cabinet cluster financial management processes.</p> <p>Annual Appropriation Acts will include contingency funding for the integrity agencies, in addition to appropriations for the ordinary services of the integrity agencies.</p> <p>Expenditure of contingency funds may be approved by the Treasurer on request, with the request and response also provided to the relevant Parliamentary oversight committee. The new Treasurer's Direction will set out how requests for contingency funding are to be assessed.</p> <p>Integrity agencies will otherwise continue in the Premier and Cabinet cluster, to ensure that integrity agencies receive the benefits of cluster arrangements, such as assistance with fulfilling work health and safety obligations.</p>



Mark Speakman
Attorney General

A5356690

Ms Margaret Crawford
Auditor-General for NSW
Audit Office of NSW
GPO Box 12
SYDNEY NSW 2001

Dear Auditor-General

Government response to special report entitled *The effectiveness of the financial arrangements and management practices in four integrity agencies*

Thank you for your special report entitled *The effectiveness of the financial arrangements and management practices in four integrity agencies* (October 2020).

After careful consideration of the findings and recommendations in your report, and following consultation with your office, the Independent Commission Against Corruption, the Law Enforcement Conduct Commission, the NSW Electoral Commission, and the NSW Ombudsman (collectively, **integrity agencies**), I am pleased to confirm that the NSW Government will implement new funding arrangements to safeguard the independence of the integrity agencies.

The following funding model will be implemented as part of the NSW Budget 2022-23:

- The integrity agencies will be removed from Premier and Cabinet cluster financial management processes.
- Efficiency dividends will not be imposed on integrity agencies.
- A specialist integrity agency unit will be established within NSW Treasury to manage representations for budget and supplementary funding and provide the integrity agencies with information on funding outcomes.
- Integrity agencies will be invited to review Treasury's advice to the Expenditure Review Committee of Cabinet (**ERC**) on integrity agency funding bids and provide their own advice directly to ERC.
- The integrity agencies, and the relevant Parliamentary oversight committees, will be provided with funding decisions in writing, and, if relevant, reasons for variation from a funding bid, to enhance transparency in decision-making.
- Annual Appropriation Acts will include contingency funding for the integrity agencies, in addition to appropriations for the ordinary services of the integrity agencies. Expenditure of contingency funds may be approved by the Treasurer on request, with the request and response also provided to the relevant Parliamentary oversight committee.

A Treasurer's Direction, drafted in consultation with the integrity agencies, will be issued codifying the new arrangements. I anticipate that Treasury representatives will engage with your office shortly on this matter.

I enclose a table summarising the Government's implementation of the recommendations of your report.

Yours sincerely

Mark Speakman

9 MAY 2022

Encl.

Table summarising the implementation of the recommendations of the Auditor-General entitled *The effectiveness of the financial arrangements and management practices in four integrity agencies* (October 2020)