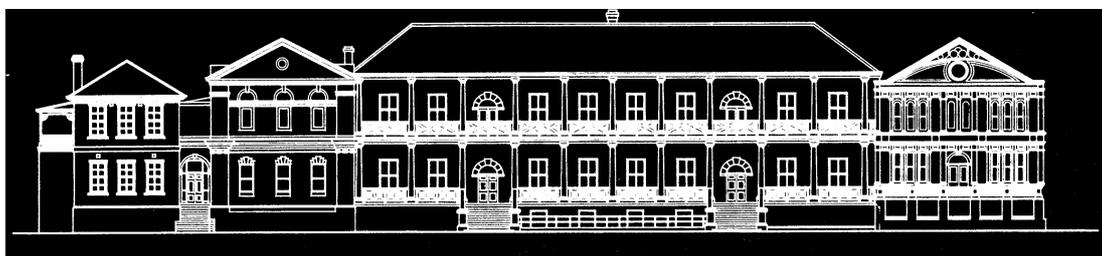




PUBLIC ACCOUNTS COMMITTEE

PROBLEMS IN THE ADMINISTRATION OF THE PUBLIC FINANCE & AUDIT ACT 1983 DURING THE REVIEW OF THE AUDIT OFFICE OF NEW SOUTH WALES



**Report No. 3/52
No. 121**

February 2000

This report was compiled using *Word 97*
and printed by the Parliamentary Printing Services.

This report will also be available on the Internet via: <http://www.parliament.nsw.gov.au>

Copies of this report may be obtained from:

Government Information Service
Goodsell Building
8-12 Chifley Square
Sydney 2000
Telephone (02) 9752 1111

New South Wales Parliamentary Library cataloguing-in-publication data:

Review of the Audit Office of NSW Under Section 48A of the Public Finance & Audit Act
[Sydney, N.S.W.]: Public Accounts Committee 2000
Report / Public Accounts Committee ; 2/52 (no.120)

At head of title: Parliament NSW, Public Accounts Committee.

ISBN No. 0 7347 6602 5

MEMBERS OF THE PUBLIC ACCOUNTS COMMITTEE

Members of the Public Accounts Committee of the 52nd Parliament:

Mr. Joseph Tripodi, B.Ec. (Hons), MP, Chairman.

Joe Tripodi was elected to Parliament in March 1995 as the Labor Member for Fairfield. Before entering Parliament he worked as an economist with the Reserve Bank of Australia and as a union official with the Labor Council of NSW. He has been a Member of the Committee since May 1995 and was elected Vice-Chairman in September 1996.

The Hon. Pam Allan, B.A. (Hons), Dip. Ed. (Syd.) Honours in Government, MP, Vice-Chairman

Ms. Allan was elected to Parliament on 19 March 1988 as the Labor Member for Wentworthville. Prior to entering Parliament, Ms. Allan served as an Alderman on the Parramatta City Council and as a delegate and later became Chairman of the Western Sydney Regional Organisation of Councils. During her Parliamentary career Ms. Allan has served as the Minister for Environment and Shadow Minister for Planning, Environment and Women's Affairs. Ms. Allan has served as member of the Joint Select Committee on Waste Management and was elected to the Public Accounts Committee on 3 June 1999 and appointed Vice-Chairman on 23 June 1999.

Mr. Ian Glachan, MP

The Liberal Member for Albury since 1988, Ian Glachan has had a varied background. He served five years at sea as a marine engineer, was a farmer for ten years, and operated a newsagency in Albury for 18 years. Mr Glachan is also a past president of the Albury-Hume Rotary Club and a Paul Harris Fellow, an active member of the Anglican Church, and was the Legislative Assembly member on the Board of Governors of Charles Sturt University. He is a former Chairman of the Public Accounts Committee.

Ms. Katrina Hodgkinson, MP.

Ms. Hodgkinson was elected as National Party Member for Burrinjuck on 27 March 1999. Before entering Parliament Ms. Hodgkinson was Executive Officer to the Federal Cabinet Minister, Senator The Hon. Nick Minchin. Ms. Hodgkinson is a partner in a wool and fine arts retail enterprise. She is a former property developer and is a former member of several rural economic based committees. Ms Hodgkinson was appointed a member of the Public Accounts Committee on 3 June 1999.

Mr. Richard Torbay, MP.

Mr. Torbay was elected an Independent Member for Northern Tablelands on 27 March 1999. Before entering Parliament, Mr. Torbay served the local community of Armidale. He is currently the Mayor of Armidale and has served in this capacity since 1995. He was previously Deputy Mayor and served on the Armidale City Council since 1991. Mr. Torbay has acted as Chairman of the NSW Country Mayor's Association, and is the Patron of Armidale District Chamber of Commerce. Mr. Torbay became a member of the Public Accounts Committee on 3 June 1999.

Mr. Barry Collier, B. Comm., Dip. Ed., Dip. Law, MP.

Mr. Collier was elected Labor Member for Miranda on March 1999. Before entering Parliament Mr. Collier was a Barrister practising criminal law (1997-98) and previously a solicitor from 1989 to 1996. Prior to being admitted as a solicitor, Mr. Collier was a high school teacher for 17 years, teaching economics, commerce and legal studies. He is a former President of the Legal Education Teachers' Association, a former Director of the Economics Teacher's Association, and is a published author having written *Introducing Economics 1, 2 & 3* - texts for HSC economics examination students. He chaired the NSW Economic Examination Committee for 3 years from 1985-1988. Mr. Collier was appointed a member of the Committee on 3 June 1999.

Public Accounts Committee Secretariat

Yael Larkin
Committee Manager

Keith Ferguson
Temporary Research Officer

Julie King
Temporary Assistant Committee Officer

Public Accounts Committee
Parliament House
Macquarie Street
Sydney NSW 2000

Telephone (02) 9230 2631
Facsimile (2) 9230 2831
E-mail: pac@parliament.nsw.gov.au

REVIEW OF
AUDIT OFFICE OF NSW
under S48A
of the
PUBLIC FINANCE AND AUDIT ACT

PUBLIC FINANCE AND AUDIT ACT 1983

Part 3 Division 5

Section 48A Review of Auditor-General's Office

- (1) A review of the Auditor-General's Office is to be conducted under this section at least once every 3 years.
- (2) The review is to examine the auditing practices and standards of the Auditor-General and to determine whether the Auditor-General is complying with those practices and standards in the carrying out of the Auditor-General's functions under this Act.
- (3) The review is to be conducted by a person (the reviewer) appointed by the Public Accounts Committee for the time being constituted under Part 4.
- (4) The reviewer:
 - (a) is to be appointed on such terms and conditions and is entitled to such remuneration (if any) as are determined by the Public Accounts Committee, and
 - (b) in conducting a review under this section, must comply with any directions as to the review given by the Committee.
- (5) The remuneration payable to the reviewer is to be paid from money appropriated by Parliament for the purpose.
- (6) Sections 36, 37 and 38 apply in relation to the reviewer as if references in those sections to the Auditor were references to the reviewer.
- (7) The reviewer is to report to the Auditor-General as to the result of any such review and as to such other matters as in the judgment of the reviewer call for special notice.
- (8) the reviewer must not make a report of a review conducted under this section unless, at least 8 days before making the report, the reviewer has given the Auditor-General a summary of findings and proposed recommendations in relation to the review.
- (9) The reviewer must include in the report any written submissions or comments made by the Auditor-General or a summary, in an agreed form, of any such submissions or comments;

- (10)** The reviewer, in a report of a review under this section:
- (a)** may include such information as he or she thinks desirable in relation to matters that are the subject of the review, and
 - (b)** must set out the reasons for opinions expressed in the report, and
 - (c)** may include such recommendations arising out of the review as he or she thinks fit to make.
- (11)** The Auditor-General is to forward a report prepared under this section to the Public Accounts Committee within 2 months of receipt of the report.
- (12)** The Chairman of the Public Accounts Committee is, on receipt of such a report, to present the report to the Legislative Assembly, if the Legislative Assembly is then sitting.
- (13)** If at the time at which the Chairman seeks, in accordance with this section, to present the report to the Legislative Assembly the Legislative Assembly is not sitting, the Chairman is to present the report to the Clerk of the Legislative Assembly to be dealt with in accordance with section 63C.

CHAIRMAN'S FOREWORD

The review of the Audit Office of NSW undertaken every three years by the Public Accounts Committee is one of the Committee's most important functions. It serves to ensure that the work of the Auditor General remains accountable and of the highest standard. The Committee believes that the Peer Review report identifies and targets important areas for improvement and constructively prescribes ways in which the operations of the Office may be made more efficient and effective.

The Public Accounts Committee initiated its fourth tri-annual review of the Audit Office of New South Wales in 1998 under Section 48A of the Public Finance & Audit Act 1983. It met with the appointed reviewer, Professor Allan Craswell on a number of occasions to monitor the progress of the review and offer administrative assistance in relation to liaison with government agencies.

In discussing the progress of the review, the reviewer advised the PAC that, as auditing practices within the Audit Office evolved, they included a shift towards the auditing of management practices within government agencies. The reviewer advised the PAC that, whilst the last peer review emphasised the methodology of audits, the current review would stress the shift towards the auditing of management reflected in the increasing number of performance audits undertaken by the Office.

The Committee concurred with the findings of the reviewer that the future of auditing lay in the often controversial arena of performance audits. However, the Committee conveyed to the reviewer its particular concern that performance audits over the years had lost sight of the distinction between government policy and assessments of the efficiency and effectiveness of management practices within government. The Committee expressed its concern to the reviewer over the way audits had frequently commented on government policy when Section 38D of the Public Finance & Audit Act 1983 expressly prescribes that:

Nothing in this Division entitles the Auditor-General to question the merits of policy objectives of government...

The Committee believes that the review under-emphasised this important failing of the Auditor General's work over the last three year period.

The Committee was also concerned with the process governing the review under the Public Finance & Audit Act 1983. It felt that the finalisation of the review was unnecessarily delayed by the Committee's limited control over the review process as set out by the Act. The Committee plans to submit recommendations for change to Treasury as part of the Fundamental Review of Financial and Reporting Legislation that is currently in progress. The Committee plans to table a separate supplementary report detailing the difficulties it encountered in administering the Act during the review.

The Committee believes that the Peer Review is a comprehensive and detailed analytical undertaking which identifies important shifts in audit emphasis over the years and one which acknowledges the consistently high standards maintained by the Audit Office. The Committee would like to thank Professor Craswell for undertaking the review so professionally.

The PAC wishes to thank all government agencies who assisted the reviewer in compiling the report. The Committee also wishes to thank all those previous Members of the Committee who took part in the initial stages of the review. The Committee would like to thank those members of the Secretariat who co-ordinated the various inputs for this report.

Joseph Tripodi, MP
Chairman

Section 48A of the Public Finance & Audit Act 1983:

Review of Auditor General's Office

Difficulties Administering the Act

Under Division 5 Section 48A of the Public Finance & Audit Act 1983, the Public Accounts Committee is required to undertake a review of the Audit Office of NSW every three years.

During the final stages of the current review certain issues caused the finalisation of the review to be unnecessarily delayed. These delays highlighted flaws in the Act which the Committee considered deserving of attention and rectification. The Committee believes the delay and confusion were essentially underpinned by the limited amount of supervision afforded the Committee in the process of undertaking the peer review as set out under section 48A of the Public Finance and Audit Act 1983.

Problems encountered by the PAC in administering the Act

The process of preparing a report of the Peer Review prescribed by the Public Finance and Audit Act requires that under section 48A (8) :

the Auditor - General has received a summary of the findings and proposed recommendations contained in the review at least 28 days before the reviewer makes a report.

This provision ensures that the Auditor-General is provided with the opportunity to respond to the findings and recommendations of the Peer Review Report.

However, there is no corresponding opportunity prior to section 48 A (8) of the Act for the PAC to ensure that the reviewer has fulfilled the terms and conditions of his or her contract with the Committee. In this way the Committee believes that the Act currently limits the PAC's control over the review process. Whilst the Public Accounts Committee at all times respects the sanctity of the independence of the reviewer in reviewing the Audit Office, the reviewer is bound by a contract with the Committee which sets out the terms and conditions of the review. The reviewer is required to fulfil those terms of reference and any directives issued by the Committee at any time during the review. The legislation currently provides no formal process whereby the Committee can be guaranteed that the reviewer has fulfilled his or her obligations under the contract prior to the review being finalised.

Unnecessary delays were experienced in finalising the Peer Review for this reason. Having discovered at the end of the review process that one of the conditions of the contract had not been fully met, the Committee asked the reviewer to include additional analysis in a new final report. The Committee had expressly requested in its contract with the reviewer that the review:

Analyse the Auditor's report/public statements to evaluate the extent to which policy matters are covered in them.

The final report failed to include the depth of analysis expected on this issue, particularly in view of the fact that Section 38D of the Public Finance and Audit Act 1983 expressly states that:

Nothing in this Division entitles the Auditor General to question the merits of policy objectives of the government...

There is a risk that the Auditor General acted illegally in this regard. The failure of the review to examine the statements of the Auditor General prevented the Committee from conclusively determining whether the Auditor General was in breach of the Act.

Notwithstanding, the Committee believed that the Auditor-General had infringed this section of the Public Finance and Audit Act sufficiently frequently over the last three years to warrant greater attention in the peer review than it ultimately received. The Committee felt that the contracted reviewer being in an independent and apolitical position was well placed to discuss this failing of the Office in greater detail. The Committee expressly sought this from the reviewer on more than one occasion.

The Committee believed the finalised review under-emphasised the controversial tendency of performance audits to comment on government policy. It felt that this was a sufficiently important aspect of the peer review which received inadequate attention in the final report. The Committee specifically sought the opinion of the reviewer on this matter in order to bring some final resolution to this source of disputation between the Auditor-General and both the Executive and the PAC.

Recommendation:

That Section 48A of the Public Finance & Audit Act 1983 be amended to include a provision which ensures, to the satisfaction of the Committee, that the reviewer has fulfilled all the terms and conditions of the peer review contract in addition to other directives issued throughout the review process.

It is also recommended that this provision be included prior to the review being forwarded to the Auditor-General for his response.

Funding Issues

The Committee was also concerned with the significant cost of undertaking this review every three years. In line with the Audit Office's practice of billing its clients for audits undertaken, the Committee believes that the client, being, in this case, the Audit Office, should fund the review. The Committee believes that the cost of the review imposes a substantial financial burden on the Legislative Assembly, and that accordingly, consideration should be given to the Audit Office, as client in this review, being assigned financial responsibility.

Recommendation:

Consistent with Audit Office practice that clients are billed for audits undertaken, it is recommended that consideration be given to the Audit Office as client in this review, being assigned financial responsibility for the review.

Conclusion

The Committee believes that current provisions under the Public Finance and Audit Act 1983 leave room for inefficiencies in the peer review process. The Committee believes that whilst the content and findings of the review should be protected from external influence, the Act should make provision for greater control of the review process by the Committee in order to ensure that the terms and conditions of the reviewer's contract are fulfilled.

The Committee resolved to submit to Treasury recommendations for improvement in order to safeguard against a recurrence of this in the next peer review.