



LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

STANDING COMMITTEE ON PUBLIC ACCOUNTS

(Reference: [Annual and financial reports 2015-2016](#))

Members:

MRS V DUNNE (Chair)
MR M PETTERSSON (Deputy Chair)
MS B CODY
MR A COE

TRANSCRIPT OF EVIDENCE

CANBERRA

TUESDAY, 28 FEBRUARY 2017

Secretary to the committee:
Mr A Snedden (Ph: 620 50199)

By authority of the Legislative Assembly for the Australian Capital Territory

Submissions, answers to questions on notice and other documents, including requests for clarification of the transcript of evidence, relevant to this inquiry that have been authorised for publication by the committee may be obtained from the Legislative Assembly website.

APPEARANCES

ACT Audit Office	65
ACT Ombudsman's Office	50

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Amended 20 May 2013

The committee met at 3.32 pm.

Appearances:

ACT Ombudsman's Office

Glenn, Mr Richard, Acting ACT Ombudsman

Ford, Mr Mathew, Acting Senior Assistant Ombudsman, Immigration, Industry and Territories Branch

Bell, Ms Chelsey, Director, ACT Team, Immigration, Industry and Territories Branch

THE CHAIR: Welcome to today's hearing of the public accounts committee. This is the second hearing of the Standing Committee on Public Accounts into the 2015-16 annual reports, referred by the Assembly on 16 February. The committee is to inquire into the annual reports referred to it and report to the Assembly by the last sitting day in May. This afternoon the committee will examine two annual reports, starting with that of the Ombudsman. Welcome, Mr Glenn, Mr Ford and Ms Bell.

I remind witnesses of the protections and obligations afforded by parliamentary privilege and draw your attention to the pink laminated sheet, which is a statement in relation to privilege. I would ask you to confirm for the record that you have read and understood the privilege implications of the statement.

Mr Glenn: Yes.

THE CHAIR: I remind witnesses that the proceedings are being recorded by Hansard for transcription purposes, as well as being live streamed and broadcast. Before we proceed with questions from the committee, do you want to make an opening statement, Mr Glenn?

Mr Glenn: Thank you, chair, if I may. I want to mention very briefly for the committee, if you are not already aware, that the former Ombudsman, Mr Neave, resigned from his position in the middle of January. He finished his term slightly early. I have been appointed Acting Commonwealth and ACT Ombudsman from that date until the middle of April. There is a recruitment process underway being managed by the commonwealth Department of the Prime Minister and Cabinet to select a new Ombudsman. I am hopeful that we will have the name of the new Ombudsman available certainly before the end of my acting period, but sometime around the beginning of April.

THE CHAIR: On a procedural issue, have you made an oath as an officer of the Legislative Assembly or does that not apply because you are in an acting position?

Mr Glenn: I think that has not applied because I am in a short-term acting position.

THE CHAIR: I would like to go back to some issues that were raised by my colleague Mr Hanson in earlier years, when he raised issues about the number of matters that were raised with the Ombudsman's office which were eventually investigated by the Ombudsman. I have had conversations with the previous

Ombudsman, Mr Neave, about the clarity of complaints mechanisms across jurisdictions. For instance, the annual report says that you received 590 approaches, 465 about directorates, and that the Ombudsman investigated 91 approaches, 74 about directorates. That is a very low hit rate for the number of approaches. Are people misplacing their approaches? Are they going to the right place? What are you finding?

Mr Glenn: I do not have the precise statistics about that in front of me, but I would not characterise it as people necessarily going to the wrong place. Certainly, people do approach us about issues that are better placed with other oversight bodies. If someone wants to raise an issue about disability discrimination or health with us, we cannot deal with that, and we would refer them on to the appropriate body, the Human Rights Commission.

Predominantly, though, matters that are not investigated by our office are discretioned out, because the individual has not complained already to the agency concerned and we would take, in most cases, the approach that the individual needs to try and resolve their matter with the agency and the agency needs to be given the opportunity to resolve it with the person before we investigate.

Other than that, there are a whole range of reasons why we might decline to investigate a particular complaint, including—and these are set out in the statute—either that the complaint is particularly old, so it has become stale and is difficult to investigate, or that there are reasons in the circumstances that the complaint should not be investigated—“it is not warranted in all the circumstances”, is the phrase in the statute. That could be a person who is complaining about a particular aspect of government policy as opposed to a matter of administration.

THE CHAIR: Are you seeing that there are people who are coming to you in one of two circumstances: they have complained everywhere they can and they go to you; or they come to you with the misplaced perception that you are the go-to person for everything?

Mr Glenn: Yes, to both of those, but not in enormous numbers.

THE CHAIR: Not in enormous numbers.

Mr Glenn: No. It is probably more common that people approach our office prematurely, that is, without having had an engagement with the agency that they have a concern with.

THE CHAIR: Mr Pettersson.

MR PETTERSSON: I am reading with great interest the Child Sex Offenders Register section of the report. There is one part that puzzles me. There is one instance in the ACT where it was not reported correctly; is that what I am gathering from this?

Mr Glenn: Which page?

MR PETTERSSON: Page 11. It states:

In 2015-16 the office finalised one inspection.

Is an inspection a report?

Mr Glenn: An inspection is one examination of the documents. We would typically inspect annually the register. One inspection occurred in that year. Reporting can occur in the subsequent year, depending on how things pan out. That is simply one exercise of our powers, to look at the material.

MR PETTERSSON: So it was only done once because there was only one instance, one offence, in the ACT?

Mr Glenn: No, it was only done once because the obligation is to inspect annually.

MR PETTERSSON: So you are inspecting the entire register?

Mr Glenn: Inspecting the entire register. If you are referring two lines down, to the reference to “one instance”, it is one instance of noncompliance in the register that we identified during the inspection.

MR PETTERSSON: Is it common to find instances where there are errors?

Mr Glenn: Across all of our law enforcement inspection jurisdictions, it is relatively common to find instances of noncompliance, many of which are administrative errors. It is rare to find instances of noncompliance that are serious or lead to questions about the validity of the register or the activities that are occurring. That is one of the reasons that we go and have a look at these things every year, to see whether these powers are being administered appropriately, whether these records are being kept accurately. We can identify occasionally minor errors; sometimes there is a more significant one but that is fairly rare.

THE CHAIR: Ms Cody.

MS CODY: I was reading through the Ombudsman’s annual report. It was quite interesting to read, I must be honest with you.

THE CHAIR: And it is blissfully short.

MS CODY: Yes, I know. That is why I liked it so much!

Mr Glenn: We try to make it both!

MS CODY: I have a couple of questions in relation to the surveillance devices investigation. I note that ACT Policing disclosed four instances of noncompliance with section 10 of the act. What penalties and/or disciplinary action were taken in those four instances?

Mr Glenn: I am not aware of there being any disciplinary action or penalties flowing from that particular incident. This was a situation where a judicial officer who was not appropriately appointed was issuing warrants, so the warrants were consequently

unlawful. That is an error on the part of numerous parties, and that is one of the reasons that we look at these things. As far as we could detect, there was no intention to do the wrong thing; it was simply a series of errors. The broader consequence of those events was the actions that ACT Policing took to remove the material that had been obtained and not to use anything that had been obtained unlawfully in a manner that would prejudice the—

MS CODY: So your understanding is that none of that information was used?

Mr Glenn: That is my understanding, yes.

THE CHAIR: To follow up, does that mean that somehow the delegation was wrong? How is it that a judicial officer does not have the power to authorise a surveillance device?

Mr Glenn: Mr Ford probably has a better idea.

Mr Ford: The delegation is actually given to a judge of the Supreme Court. The way that it was used was not by a judge of the Supreme Court but by a judge of a lesser court.

THE CHAIR: We do not have a judge of a lesser court.

Mr Ford: Sorry, the Federal Court.

THE CHAIR: Because judges of the Federal Court do not have a dual appointment.

Mr Glenn: Not anymore, no. Because the exercise of this—

THE CHAIR: That is another reason why we should have dual appointments to the Federal Court.

Mr Glenn: The exercise of these powers is often mixed and the appropriate judicial authority to issue the warrant changes depending on the nature of the power being exercised. This was one where the only authority was a judge of the Supreme Court of the ACT. There are other powers that police can exercise so that warrants can be sought from Federal Court judges and others. That is part of the reason, I think, for the mix-up.

THE CHAIR: Was it an issue with the drafting, essentially?

Mr Glenn: Yes, the individual who was approached to issue the warrant.

THE CHAIR: That has been rectified in that the material gained cannot be used in evidence, because it was an illegal warrant, but has the issue been fixed in the drafting or do the police know that for the surveillance devices legislation they can only go to the Supreme Court?

Mr Glenn: From our engagement with the police, they know they can only go to the Supreme Court, and that is their process.

THE CHAIR: Would it be better if the delegation was broader?

Mr Glenn: I do not think we could express a view.

THE CHAIR: That is a policy issue that you do not want to get into; okay.

MS CODY: I have a couple more questions in that same vein. You mentioned that the information gained was not used. Was the person made aware of it?

THE CHAIR: The person listened to.

MS CODY: Yes, I am trying to think of how to word that—surveilled.

Mr Glenn: The person surveilled; I do not know.

MS CODY: What is the ACT government's exposure to civil liabilities in response to this?

Mr Glenn: In this particular instance?

MS CODY: Yes.

Mr Glenn: I am afraid I could not make a guess about whether there is any potential liability there. That is perhaps something that the government or the police would need to answer. Certainly, there are criminal penalties within most of these jurisdictions about the misuse of material, but I do not think there has been any evidence of that having occurred.

MR COE: With regard to the reference in the report about the AMC oversight agencies working group and your officers' involvement in that body, I was wondering whether you could give a rundown to the committee about what the Ombudsman's involvement has been.

Mr Glenn: Our involvement really has been just as a member of that group to discuss with other oversight agencies issues that we have been detecting. Our contribution is on issues we have been detecting through complaints made by people associated with the AMC, be that detainees or others. That is really about sharing information with the other agencies that go on site to AMC more regularly and to have an interest in the way services are delivered at the centre. It is really not much more from our perspective than an information exchange opportunity.

MR COE: How regular are the meetings?

Mr Glenn: I do not know.

Ms Bell: The meetings are held every two months. There is a meeting which is hosted by the AMC itself out at AMC that we attend. We also get some updates from AMC about new things that might be happening at AMC and we also meet outside that forum with the other oversight agencies, usually in the week preceding that meeting

with AMC.

MR COE: How regular an occurrence are complaints made by prisoners at AMC? Do they take up the, dare I say, the lion's share of complaints that you are receiving?

Mr Glenn: Across our statistics, in 2015-16 we received 46 complaints about ACT Corrective Services. That is essentially complaints about AMC. The bulk of those, I would expect, were from detainees. It is a chunk but it is not an enormous proportion of the complaints we receive.

MR COE: Are there any particular trends that you can establish, based on those 46 complaints? Are detainees trigger happy in lodging complaints or are there some themes that come through?

Mr Glenn: I certainly have not had drawn to my attention any particular themes. Complaints will naturally track a series of issues to do with the circumstances of detention: visits, food and those sorts of things—nothing that we can pick up as a trend. Detainees themselves do not overwhelm us with complaints. I would not suggest that they are trigger happy in making complaints but they are aware that they have the opportunity to approach our office if they need to.

MR COE: With regard to the relatively recent death of a prisoner in custody, what involvement did the ACT Ombudsman have in the investigations or in the processes surrounding that event?

Mr Glenn: We did not have any involvement in the investigations, either by the coroner or others, in relation to that. That falls outside our jurisdiction. We have been monitoring the situation and of course have had some discussions with Mr Moss, who conducted the independent review into that incident, and then subsequently with the government about the proposed government response.

THE CHAIR: Could I go back to the discussion about the sex offenders register and the statement in relation to the CPO having to issue a new instrument to make it clear that only authorised people can have access to the register because there appeared to have been unauthorised access to the register. Can you outline how many unauthorised accesses there were to the register?

Mr Glenn: I do not think I have that. Mr Ford, do we?

Mr Ford: I do not believe that we do. No we do not at the moment. We can find it out.

THE CHAIR: You do not have that?

Mr Ford: I do not have it with me.

THE CHAIR: Can you take on notice how many unauthorised accesses, and can you outline—and you may have to do this on notice—without prejudicing any case, how this happened? Is it sufficient to issue a new instrument or does there have to be further education or further security on the register? How do you protect the register in the way that it is intended to be protected?

Mr Glenn: We can take on notice the questions about the number of access, if that information is in fact available to us. On the question of whether the new instrument is sufficient, we would say that the result of our inspection and the reporting that we had to make to ministers about the noncompliance and the steps that the Chief Police Officer has taken subsequently are sufficient, but of course we register this as an item that we will look at, at subsequent inspections. We take a longitudinal slice of this over time to see if the problems have been fixed.

THE CHAIR: Do you have any information as to whether this would have impacted on any current investigations or was it simply an invasion of the privacy of people who are on the register?

Mr Glenn: I am not aware of it having any capacity to impact on investigations and, indeed, it is actually difficult to characterise this other than as an instance of noncompliance in a sense. And we can check this. It is not necessarily the case that people who should not have seen the information saw it; it is simply that they were not covered by an appropriate authorisation at the time. Whilst noncompliant, it was not necessarily—

THE CHAIR: It was not necessarily a case of voyeurism, that sort of thing.

Mr Glenn: Voyeurism and enormous privacy breaches. It was people who would otherwise be performing those duties inspecting the information.

THE CHAIR: Also while I am on the subject, the reportable conduct scheme, which commences—

Mr Glenn: 1 July.

THE CHAIR: How are you ramping up for the reportable conduct scheme? There was discussion about whether you had appropriate resources for that. How do you see that you are placed to resource that scheme properly?

Mr Glenn: We have received some additional resourcing from the government to build up our team around reportable conduct. We are doing a lot of work with the other oversight agencies and the other agencies involved in child protection in the ACT. We are shortly to do some outreach and education work with people who will be subject to the scheme, going and talking to the schools and the childcare providers and others. We have been doing a lot of work with the New South Wales Ombudsman's Office, who of course have been running a similar scheme for a long time.

On resourcing—and I will ask my colleagues to talk about the specific numbers in a moment—we have received a reasonable amount. We have also received the offer of in-kind support from directorates for things like the outreach, advertising and so forth. At this point we are really taking a sort of a watch-and-see approach. I think we are probably as close to the smallest amount of money that we could possibly do the job for and we really will not know until we see the number of reports that come through whether we are adequately set up. We have left our negotiation on funding with the

government on the basis that if we receive more reports than are expected then we will return to government with a view to being resourced more generously.

THE CHAIR: Just before we go to the sort of quantum, is the set-up the expensive part or is it the ongoing administration that will be for investigations that will be the expensive part?

Mr Glenn: Certainly there is an element that is front loaded—it is the set-up—because there is some computer work to be done, ICT work, and the education piece, which really needs to be quite extensive. Once it is operating, it can run at a slightly lower staff level, we would imagine, but it is very sensitive to the number of reports.

THE CHAIR: Refresh my memory: what was the original appropriation for the ombudsman and the extra appropriation?

Mr Ford: In total, it comes to about \$1.3 million over four years. In the first year it will be \$473,000, which is 2016-17. In 2017-18 and subsequent years, it is \$282,000, \$288,000 and \$293,000.

THE CHAIR: That is just going up with CPI?

Mr Ford: It is.

THE CHAIR: It is front loaded?

Mr Ford: That is right.

THE CHAIR: Does that include the services in kind or that is just the appropriation?

Mr Ford: That is just the appropriation.

THE CHAIR: That figure has not changed?

Mr Ford: It has not changed, not as yet.

THE CHAIR: That was the appropriation. But you said that there was an offer of more money, more resources, but that is resources in kind?

Mr Glenn: That is resources in kind, yes.

MR PETTERSSON: I note with great interest that from 2003 to 2012 there was a steady increase in approaches but then after that there is a drastic drop-off. Can you attribute that to anything?

Mr Glenn: It is really very hard to identify a single cause. If we are looking at some of our own activity, our engagement with agencies, with directorates to improve their own complaint handling, we like to say it has an effect on the number of approaches that come to us, but otherwise they are simply our fluctuations and of course, given in the ACT jurisdiction the numbers are relatively low, small fluctuations sort of show up a bit more. But I think we are starting to approach kind of a five-year average for

this year, but it is really quite difficult to determine what it is—the mixture of better complaint handling by directorates, different levels of engagement by people in the community and different ways of solving problems that contribute to the fluctuation of complaint numbers.

MS CODY: Following on from that, I notice that you did a bit of work with what was TAMS, now TCCS. Do you do a lot of that sort of stuff? Do you work with a lot of directorates to help build their knowledge and help build their skills?

Mr Glenn: We do try to and we do try to work with complaint handlers in the directorates. That exercise with TAMS was kind of an experiment to reach administrative decision-makers in their own context and to reach, I suppose, people who are administrative decision-makers but whose day-to-day work looks slightly different—people who are dealing with animal control and those sort of things, who do not necessarily identify themselves as administrative decision-makers but who need to think of what they are doing in that framework. That was a bit of an experiment there. The feedback has been that it has been relatively useful for those staff. We would be very happy to do more of that and we will talk to directorates about it.

MS CODY: The outcomes were positive as well? You said that your feedback has been positive. Have the outcomes been positive as well?

Mr Glenn: I do not know that we can detect any change. Certainly the feedback from the managers of those individuals suggested that they thought it was a worthwhile exercise. Detecting that in complaint numbers is a bit trickier.

MS CODY: It is probably a bit too early, really, if it was only last year.

Mr Glenn: Yes.

MS CODY: I also note you talk about community engagement and support. Can you expand on some of that a little more?

Mr Glenn: We have had a number of recent engagements—and I will just find the particular piece of paper so that I know.

THE CHAIR: Page 12.

Mr Glenn: Going back to 2015-16, in August 2015 we had a meeting with a range of community members, with 20 representatives of community and professional peak bodies, and that was really about trying to learn about complainant behaviour so that could we tap complaints that were actually not being made to us, which kind of goes to the questions we were talking about, about numbers. I think we got a really useful insight into the way community bodies are observing the behaviour of directorates and the way that they are dealing with their members.

More recently, in June last year, in association with our Commonwealth Ombudsman functions, we held an Indigenous roundtable in Canberra to reach out to the Indigenous community. Some of the themes that emerged from there were quite

interesting. We found we needed to do some more work with the local Indigenous community around understanding of our role, which we will continue to do, and interesting feedback about the community's perception of how our office and our agencies acknowledge the depth of experience that exists within the Indigenous community and the extent to which engagement with the community would be useful in policy development in our own work. That was quite important learning for us.

Separate to those things, we continue to engage with agencies and agency complaint handlers through different fora. We try to cover the community and the agencies to get a better picture of how everyone is feeling about the complaint load and the sorts of issues that are emerging. And for the most part, the issues that people tell us about are issues that we are seeing ourselves, which is a useful confirmation for our work.

THE CHAIR: Just following up on complaints handling, I note that it has been a fairly constant theme in the public accounts committee through annual reports that there seems to be a bit of a disconnect between agencies. Back in 2013 the public accounts committee made recommendations regarding whole-of-government feedback and complaints. Your description in the annual report here of the forum in 2015 is a bit of an indictment in that everyone recognises what the problem is—the complainants say, “This is the problem,” and the complaint handlers anticipate that that is what the complainants are going to say—but they have not actually resolved the problem. How do we go forward so that the complaint handlers anticipate what the problems are and actually intercept those so that they cease to be complaints? What is that conversation like?

Mr Glenn: Part of that is a feedback loop from our office into the directorate. If the community say something to us and the complaint handlers say something to us and we detect that there is a disconnect between the complaint handlers' view of the world and the discussions we are having with more senior people in the directorate then we try and bridge that ourselves by feeding that information back.

We have also done some work in terms of considering whether a single complaint handling standard for directorates would be of utility. That has been somewhat challenging. When you consider the diversity of the issues that come through and the diversity of the stakeholders, that has been a difficult issue to work on. We might be able to come back to that because we are aware that in New South Wales there is a lot of work going on to create, essentially, a single complaints portal and a single principle-based set of complaint handling standards that all agencies would subscribe to.

It is possible, but there is always going to be variation, depending on the types of matters that you are dealing with. Speaking to some of our New South Wales colleagues the other day, there are some really strong learnings coming out of that that I would like, in my time remaining, to be able to talk to the ACT about because I think there is material we could draw on.

THE CHAIR: One of the feelings that I get, working with constituents, is that sometimes they do not know who to complain to. They have a scattergun approach of complaining to everyone, which is pretty disheartening because they meet a whole lot of people who say, “Not me, buddy.” There is not a one-stop shop where you can

direct people to the right place to complain. They might need to make a public interest disclosure and, depending on who and what it is, they might need to go to the Public Service Commissioner or the Auditor-General or they may have something that needs to go to a health complaints area or somewhere. Is that what you see? That is what I see as someone doing constituent representation.

Mr Glenn: We certainly see that across all of our jurisdictions. It is either complainants misunderstanding which is the appropriate body to go to or potentially, out of frustration, just wanting to go to everyone simultaneously.

THE CHAIR: Because they feel like they are doing something then.

Mr Glenn: Yes, and someone will pick this up. Particularly in parts of our commonwealth jurisdiction we get lots of email complaints where you can see in the address block the address of every complaint organisation possible. That is an issue for us because there is a lot of churn involved in trying to get the person to the right spot.

One of the really significant things that one can do about that is, firstly, having our own triage arrangements to be able to point people in the right direction. It is a no wrong door approach. If somebody approaches us and they are talking about something that we cannot deal with, we seek to get them in touch with the right person, as opposed to saying, "Well, that's not us. See you later." That is a feature of certainly the Ombudsman community and other complaint handlers. The other question is: is it possible to have a single place to go where the triage can be done for the individual? That is what New South Wales is grappling with at the moment. It is an enormously complicated issue, because there are many complaints that can go to multiple places and individuals may or may not want that. The public interest disclosure world gets very tricky in who sees that type of material.

New South Wales seem to have got further down this line than other attempts, so we would like to see if we can learn something from that. What we can actually do today is make sure that complaint handlers know about each other properly and understand each other's jurisdictions so that we can simply offer a no wrong door service and gently guide the person wherever they need to go.

MR COE: I imagine it is a tad controversial or sensitive, but I guess there is an issue that if it is too easy to complain, the floodgates could open and anybody who has got any grievance about anything could be submitting complaints that are really quite frivolous. I guess to an extent you do need a barrier or at least some hoops to jump through to test the credibility of the objections.

Mr Glenn: It does get very tricky in that space. There are certainly complaints that are made that you can consider to be quite frivolous or vexatious. Those people become known to the complaint handlers relatively quickly. We still need to go through a fair process to assess the information they are putting to us, because even if a number of engagements have not led anywhere they may have a valid grievance somewhere along the line and we cannot exclude them just because of past behaviour.

But, at the same time, if bars are set too low or there is not sufficient discretion to be

able to say, “No, I’m not going to apply any more resources to this complaint,” then you can end up with a disproportionate amount of resources flowing to the unmeritorious and being taken away from those who actually need assistance. That is part of our triage process to try and be fair to everybody but to make sure our resources are getting where they are needed and not being wasted elsewhere.

MS CODY: Obviously you have known people that are—

THE CHAIR: Predisposed.

MS CODY: serial complainers, for want of a better terminology. Would they be a high proportion?

Mr Glenn: No. There are—

THE CHAIR: It depends on the complaint—

Mr Glenn: Yes. There are a range of people who are querulant. They are probably the smallest number, those people who keep going and do not give up. There are others who, for whatever reason, be it mental ill health or otherwise, are writing lots of letters to lots of people, and then there are just the generally mistaken who are going to the wrong spot. They are not huge numbers, but they do take up resources.

Probably the greatest use of resources in that area is the person who decides to complain to every agency simultaneously, because every agency then simultaneously needs to make an assessment about where that person should have gone. Through some of our smartform technology, for people who are doing that electronically, we have tried to guide them through a process that will drop them out if they say they really want to complain about something outside of our jurisdiction. In the commonwealth, if you say you want to complain about a state agency, it drops them out and says, “You need to go and contact an ombudsman.” That stops some people; it does not stop everybody. They can press through if they really want to. It is just about trying to move the people into the right space.

MR COE: I note that with the relatively new FOI Act in the ACT the role of the Ombudsman has changed slightly. I am just wondering whether your role has been fully scoped at this stage and whether you have at least finalised how you will manage the work flow and interactions.

Mr Glenn: We have internally scoped the role and have started discussions with the government about resourcing of the role, because it is a significant new function for the office. In terms of work flows and other things, we have not got into the detail of that as yet. That is pending decisions about resources to be able to do it.

THE CHAIR: Will that be a general suck it and see thing? Do you have a real fix on what the scope of works will be?

Mr Glenn: There are elements that are more easily defined, so the creation of guidelines and the framework to put into place. The number of reviews that might get to us, the number of applications for extensions of time—those sorts of things—are a

bit hard to estimate.

MR COE: In terms of the projections or your requests for additional resources, have those been quantified yet?

Mr Glenn: We have provided our estimates to government, but that is a discussion that is happening in the budget context.

MR COE: Sure. Are we talking many hundreds of thousands for this?

Mr Glenn: Certainly it is a significant function, yes. Part of the issue is that there are the guidelines and the establishment of the framework piece as well as the operational bit. Of course, these are relatively new functions for the office, so they are not necessarily skill sets that are sitting idle within our staff already. We need to bring in new people to be able to do the function, which adds to the cost.

MR COE: In addition to beefing up the relevant section or branch, does the actual organisational structure for that component of the office need to change as well?

Mr Glenn: That is something that we have been thinking about. There are a couple of models that we could run on the organisational structure. That will ultimately, I think, be decided by the amount of work that comes through on the function. The broad options are we establish an ACT FOI unit within the ACT team that Mr Ford and Ms Bell will look after, or we split it out into a separate team that sits to one side. They both have operational pluses and minuses and it really depends on volume as to which way we go. It will be a decision for the next Ombudsman in thinking about which way to go.

THE CHAIR: In your report on page 9 you talk about the approaches and complaints to ACT directorates. ACT Policing is separate from JACS and that is a separate function that you have?

Mr Glenn: Yes.

THE CHAIR: The frequent flyers other than that are the economic development areas and justice and the Community Services Directorate. How do you account for those complaints, especially in things that look a bit dry, like Treasury and economic development? It seems an odd place to get a large number of complaints.

Mr Glenn: Just looking across the stats for Chief Minister's and economic development and Access Canberra, there were 144 complaints received in 2015-16. Fifty-eight of those related to Access Canberra, so that is a direct interface service delivery-type issue. Twenty related to the ACT Revenue Office, so that is tax related, and 20 to the University of Canberra—and that is just where the University of Canberra sits in the AAOs.

THE CHAIR: I see.

Mr Glenn: It breaks down to that. Access Canberra is the leader there, as you might expect, because it has the greatest public interface.

THE CHAIR: What is the nature of the complaints that you would get? For the Revenue Office is it that somebody does not like their rates assessment or something like that?

Mr Glenn: Yes. We have seen issues about rates assessments. We have had issues from the representatives of businesses about assessments of payroll tax and other types of things.

THE CHAIR: How many of those things would you deal with, or are there alternative mechanisms? For rates there is an alternative?

Mr Glenn: Yes. We would investigate relatively few of those because there are alternative mechanisms available. From memory, if there is a service element, a delay element—something that goes to broader administration as opposed to the exercise of tax and revenue powers—that is something that we would be more likely to engage in.

THE CHAIR: What is the nature of the complaints you get from the University of Canberra?

Mr Glenn: I have not been particularly familiar with those. I have seen complaints about academic progress. So people are complaining that they have not been dealt with fairly in terms of their academic progress and their marks and those sorts of things. The university's work is relatively small, so I am not directly familiar with it. I am not sure if anyone at the table has seen it.

THE CHAIR: You also say that you received two public interest disclosures. Are you normally a destination for public interest disclosures?

Mr Glenn: Yes. The Ombudsman is, under the act, a disclosure officer so people can approach the Ombudsman. Equally, directorates can choose to allocate—if that is the correct word—a public interest disclosure to the Ombudsman where it is more appropriate that it be investigated by us. Those situations obtain if there is a potential conflict of interest within the directorate.

MS CODY: How does this year compare to other years?

Mr Glenn: It is fairly standard. It is relatively few that we see.

THE CHAIR: It says you had two this year.

Mr Glenn: Two.

THE CHAIR: Is there any commonality or common themes in the things that would end up with the Ombudsman as a complaint destination for PIDs?

Mr Glenn: No. They do vary. I suppose the common feature is what is it that has meant that it is inappropriate for the directorate to deal with it, and that is typically to do with conflict of interest or some other problem about having it done internally. The subject matter changes, but the reason for it being referred to us is generally the same.

THE CHAIR: As there are no further questions, thank you very much for your attendance.

Mr Glenn: Thank you, chair.

THE CHAIR: I remind you that the practice that we have agreed is that questions that you have taken on notice, if you could get back to us within three days of the issuing of the uncorrected proof *Hansard*, and then members can ask supplementary questions on notice. They have five business days to do that after the arrival of the uncorrected proof *Hansard*, and we ask that those supplementary questions be answered within five days after that.

Short suspension.

Appearances:

ACT Audit Office

Cooper, Dr Maxine, Auditor-General
Sheville, Mr Bernard, Director, Financial Audits
Stanton, Mr Brett, Director, Performance Audits
Sharma, Mr Ajay, Principal, Professional Services

THE CHAIR: I welcome the Auditor-General and her staff to the second hearing of the 2015-16 annual reports, which were referred to the Assembly in February with the request that we report on the last sitting day of May.

I draw your attention to the pink laminated sheet which speaks about privilege and ask you to acknowledge that you have read and understood the privilege issues?

Dr Cooper: I acknowledge that, Madam Chair.

Mr Sheville: I have read the privilege statement.

Mr Sharma: I have read the statement as well.

Mr Stanton: I understand that.

THE CHAIR: Before we go to the committee for questions, Dr Cooper, do you wish to make an opening statement?

Dr Cooper: If I may. That way I can summarise key features of the report, if that is all right.

THE CHAIR: Yes.

Dr Cooper: Thank you. 2015-16 was a year of auditing the Audit Office. We were subjected to an external independent strategic review arranged by the then Speaker, Mrs Dunne.

THE CHAIR: Subjected?

Dr Cooper: We were honoured with an external independent strategic review.

THE CHAIR: That is much better.

Dr Cooper: The reviewer was Mr Des Pearson, a former Auditor-General of Victoria and Western Australia. For the committee's benefit, the conclusion involved three key things. The ACT Audit Office is achieving its legislative objectives effectively, and in so doing, it is efficient and in compliance with the Auditor-General Act and the relevant professional and audit and accounting standards. Equally importantly, I think, is another finding, that the legislative mandate is adequate to strengthen and safeguard the independence of the Auditor-General. Thirdly, the legislative mandate adequately supports the work of the ACT Auditor-General in the contemporary public sector

environment.

The strategic review was undertaken to meet a requirement that a review be undertaken once in the term of the Legislative Assembly. In addition to this review, there were our routine quality assurance reviews on the audits we undertook and internal audits on our activities that were identified by the office's Audit and Review Committee. So 2015-16 for us was a year when we were certainly being audited.

With respect to our own audit work, in 2015-16 we completed 65 audit reports on financial statements and 27 reports of factual findings on statements of performance. Eighty per cent of the financial audits were completed within their required timetable. This was the same as for 2014-15. I just want to say that completion of our audits was delayed primarily due to issues beyond our control, things like receipt of certified financial statements from agencies arriving later than scheduled. However, even though that occurred, we did meet all statutory reporting time frames in our audit work.

In 2015-16 we did seven performance audits, and the reports were tabled. They were *Public transport: the frequent network*; *Calvary Public Hospital finance and performance reporting and management*; *Maintenance of public housing*; *ACT Policing arrangement*; *The management of the financial arrangements for the delivery of the loose-fill asbestos (Mr Fluffy) insulation eradication scheme*—next time we will choose shorter titles—*Initiation of the light rail project*; and *Management and administration of credit cards by ACT government entities*.

Many of these audits were complex, and all but one was in our forward program. The one that was not in our forward program was for the Calvary Public Hospital, and that audit also has the characteristic of being our first audit on a non public sector entity under the powers of section 13D, commonly referred to as follow-the-dollar powers.

In addition to audits, representations and public interest disclosures are managed. As the Auditor-General, I am a disclosure officer, but I have also delegated that power to Mr Stanton, the director of performance audits. In 2015-16, the office received four public interest disclosures and 32 representations covering a wide range of issues. So far this year, we have already exceeded the number of representations: we are up to 38, and some of those may or may not be public interest disclosures. Some of the public interest disclosures may influence a decision to conduct a performance audit as well as the representations.

The Audit Office's short and long-term financial position is sound, as reported in our annual report. In 2015-16 we had an operating deficit of \$82,000, slightly less than the one we budgeted, of \$100,000. We do have accumulated funds, and two of the recommendations of the strategic review relate to these. We agreed to the recommendations that the reviewer made, to assess how best to use these funds, especially for managing the performance audit program, and representations and public interest disclosures. We intend presenting that material through the due process of the next budget process that occurs.

Of the 20 recommendations in the review, 16 are ones which I am solely accountable for. Of the 16, we have completed 13. Apart from the two I just mentioned related to

accumulated funds, the other recommendation that is yet to be finalised relates to a recommendation that involves the Head of Service, which requires her cooperation to work out a program with me so that newly appointed senior executives and chairs of boards are given an induction about the Audit Office activity.

The Audit Office Audit and Review Committee has monitored our progress in implementing our strategic review recommendations, apart from all the other audits we had done. For the committee's benefit, in 2015-16, there were three key internal audits undertaken. One was an assessment of the internal audit function itself. Another one was audit of the office's remuneration guide. Another one was an audit on the review of the performance audit program selection process for audit topics. They are all important, but the last one has particular importance because the selection of our forward performance audit program is the most strategic, flexible thing we have. Mr Bob Sendt was engaged to look at that. He found that our policies and processes were sound and we met our legislative obligations. And, importantly from my perspective, he felt that the way we chose things promoted public accountability.

In addition to the internal audits, on every audit we do, we have quality controls. The Audit Office also uses our findings from our audits for our learning and development program for the office as a whole. And I just want to share that we are very pleased that the office's learning and development activities were recently acknowledged by two professional accounting bodies in Australia: CPA and Chartered Accountants Australia and New Zealand. In May 2016, CPA Australia recognised the Audit Office as a recognised employer partner. CPA Australia acknowledged that the Audit Office meets international best practice learning and development standards for accounting and finance professionals. It also recognised that the Audit Office has demonstrated a strong commitment to learning and development by supporting the professional development of our accounting and finance employees.

And earlier this month I am very pleased to also say that Chartered Accountants Australia and New Zealand acknowledged the Audit Office as a recognised training employer. The chartered accountants examined the office's performance management system and formed a view that there was a strong alignment between what we do there and the competencies required to become a chartered accountant. That is a pretty high accolade, because it means we can say to staff, "You can learn on the job." We often have had issues around the stringency of our assessment processes for ourselves, but this has significant benefits for us.

One thing that occurred in 2015-16 that is important is a legislative change that was made to the Freedom of Information Regulation 1991. It was amended to exempt the Audit Office audit functions from requests for information under the FOI. This brings us into alignment with other audit offices.

I move to our challenge for the year ahead. We have a very simple challenge: how do you always complete audits on time given that you are not in control of a lot of the factors? However, we do have high cooperation from agencies. The other problem that we have is reasonably high staff turnover; staff stability for doing audits is always a major benefit.

However, we also have problems. We have been choosing more complex audits. More

complex audits often mean more analysis and more discussions with the auditees.

A challenge identified in the strategic review is to have performance audits tabled more evenly across a year. We have already had the reports on three performance audits for this year, 2016-17, tabled: reports on certain Land Development Agency acquisitions, an audit on WorkSafe ACT's management of its regulatory responsibilities for loose-fill asbestos contaminated houses, and the 2016 ACT election audit. In addition we have reported, which is unusual, on the Commissioner for International Engagement. We provided a report to the Assembly on that. Later this year we are planning to present to the Speaker four other audits that are in our program.

However, importantly, we are considering a number of representations and potentially PIDs, and we may actually do some additional performance audits. In that respect, we are currently scoping a number of potential performance audits. This includes a further audit in relation to the Land Development Agency and economic development directorate. We are also looking at either doing the cultural and heritage facility audit or a public art audit. We are also very much focused on some strong analysis around ACT government agency accountability indicators. And, importantly, we are also focused on issues within the Health Directorate. While we know there are data integrity and reporting issues, we may do more than one performance audit if we decide to do some audits in the health arena. I just flag that it may not just be one; it may be more than that.

Importantly, in our strategic review, the strategic reviewer emphasised that in government's budget paper No 2, 53 per cent of the funds are spent on health and education. While we have some issues that have come to our attention that we are considering, the mere fact of such a large percentage of the budget also warrants the attention of the Audit Office.

In terms of our financial audits, normally we present to the Assembly one major report in December that summarises our financial audits that we have done through the year. Our strategic reviewer said to break that apart so that it is more digestible for the community and for the Assembly members. So we are presenting the traditional one report in December in three reports. We have presented two of those. The next one to come, which would be presented to the Assembly, is on computer information systems.

That concludes my opening remarks. Thank you for the opportunity.

THE CHAIR: Thank you, Dr Cooper. I have a couple of things. Out of the strategic review, there were a few tasks that were the responsibility of people other than the Audit Office. That included the issue that the appointment provisions had fallen out of the act.

Dr Cooper: That is right.

THE CHAIR: The PAC made some recommendations. I have lost track. Was there a legislative change that went with that? We actually had a conversation—

Dr Cooper: We have no awareness of the legislative change, but we have not been following it closely.

THE CHAIR: So no-one has amended your act?

Dr Cooper: Nobody has come to consult with us, which they usually do. So I presume it has not happened.

THE CHAIR: We had a conversation in my office the other day, and I said, “No, it hasn’t happened.” Somebody else said they thought it had. But it has not happened?

Dr Cooper: To my knowledge, it has not happened.

THE CHAIR: Okay.

Dr Cooper: And there were three recommendations: that the Standing Committee on Administration and Procedure—I am not sure whether it is still the same form—look at some issues in terms of administrative support for the Speaker; another recommendation about agreement on protocols; and the appointment one.

THE CHAIR: Yes. The PAC looked at the appointment, and my recollection is that admin and procedures looked at the other and that stuff was in train. But that is probably a matter for the current Speaker rather than the past Speaker. So far as you know, you have not been consulted on amendments to the Auditor-General Act?

Dr Cooper: No, not on any of them.

THE CHAIR: To reinsert appointment provisions.

Dr Cooper: No, and I would imagine that the process for doing that sits with the Chief Minister’s area.

THE CHAIR: Okay.

Dr Cooper: The actual physical initiation.

THE CHAIR: You said in relation to the performance review that your internal audit committee is overseeing that. What is the membership of your internal audit committee?

Dr Cooper: Ajay, can I ask you to read out for the committee’s benefit our members and what page it is on in our report.

Mr Sharma: It is on page 49 of the annual report. There is a table, table A.5, “Audit and Review Committee”. As the chair, we have Ms Janean Richards, who is an external member of the committee. We have two internal members, Mr Tim Larnarch and Ms Elizabeth Cusack. We have Ms Clea Lewis, who is external. And we have Mr David O’Toole and Mr Jonathan Brown. Mr David O’Toole and Mr Jonathan Brown replaced Mr Tim Larnarch and Ms Elizabeth Cusack. So the current members are Ms Janean Richards, Ms Clea Lewis, Mr David O’Toole and Mr Jonathan Brown.

THE CHAIR: So you have four members, including an independent?

Dr Cooper: Two independents.

THE CHAIR: Including an independent chair and another independent member?

Mr Sharma: Yes.

THE CHAIR: Is that a usual structure, to have two independent members?

Dr Cooper: You probably do not need that many, but we did it because one of them has in-depth financial auditing and the other one has great administrative skills. I will flag for the committee's benefit that our chair will be moving on and we are currently looking at a new chair.

THE CHAIR: The Audit and Review Committee reports to you as the chief executive?

Dr Cooper: They advise me, yes.

THE CHAIR: What is the usual term of membership of that committee?

Mr Sharma: It is a term of two years—two years with the possibility of extension. Currently all the members are appointed for two years.

THE CHAIR: You are saying that the independent chair is moving on?

Dr Cooper: Yes.

THE CHAIR: So she is coming to the end of—

Dr Cooper: She has been there since 2013.

THE CHAIR: So she has had two terms?

Mr Sharma: Yes. She will be coming up to four years. When we got the review of the internal audit function by the Institute of Internal Auditors, we were told that in terms of practice you can have a member up to 10 years, but as a better practice, we have said two terms is better practice for an audit office organisation like ourselves. It also gives opportunity to benefit from the experience of other people out there.

THE CHAIR: Thank you. Ms Cody.

MS CODY: Thank you, chair. Following on from your opening statement, can you expand on the L&D program a little more?

Dr Cooper: Actually, I am going to ask Ajay to do that, because he runs it all.

MS CODY: Fantastic.

Dr Cooper: I will give him a bit of an embarrassing moment, but the reason we have been given such an accolade is through his hard effort.

Mr Sharma: The office has a learning and development program. It is for all the staff members. The way we put it together is that we have a performance development plan. The plan has got four parts to it. One is in terms of staff expectations. Then there is a part in there where staff members do a self-assessment of their learning needs. This is based on the competencies required for the positions in our office. Through doing surveys of other audit offices and looking at better practice in the profession, we have developed the areas of competency. The competencies also line up with the performance management framework, which is the assessment that we will do of staff on an annual basis.

Through that process the staff members identify their learning needs. The managers and supervisors also provide an input to that. The executive has a look at the office needs and the areas in which training competencies are required. Through a summary of that, we prepare an office-wide program and the office-wide program gets delivered to all staff members. We also have an allowance in the budget for any training needs that come up during the year. That training is provided to individual staff members.

One of the other things that we acknowledge is that there is on-the-job training to staff. We have got a coaching style that they provide where the supervisor sort of sits with the staff member and provides coaching on an ongoing basis. The training has got two components: one is the technical aspect, which is basically accounting and auditing standards and the method that we use for financial audit and performance audit. That accounts for the technical training.

Then we have softer skills training, which is more on the supervision, management skills, resilience and that type of training. We are trying to balance the training in that way. There is also report writing and business writing training that we provide to staff members.

The training is also complemented by the studies assistance program. A lot of our staff, particularly on the financial audit side, do the CPA and the chartered accountancy program. As Dr Cooper has mentioned before, we have got recognition from the CPA and Chartered Accountants Australia and New Zealand. That program is a comprehensive program for three years. It has got coaching and mentoring programs as part of it as well. The candidates have to sign off on the competencies achieved as part of the program.

Dr Cooper: We also do have, if you like, training to do with issues that may come up—sexual harassment, bullying or anything like that if we feel there is a need. Domestic violence, we certainly would put that to the whole of staff. It is as important as the technical training in terms of members of society. So we do have that as well.

MS CODY: Obviously you have minimum qualifications for your staff within the office structure?

Dr Cooper: They vary.

MS CODY: They do vary? There are some—

Dr Cooper: There is absolutely a minimum amount but also, importantly, a big competitor for ours for staff is the commonwealth.

MS CODY: Yes.

Dr Cooper: We invest a lot in the staff and we will actually train people through. We even have a system whereby graduates can join us. Depending on their level of competency at the end of their first year with us, we will then adjust them in terms of their pay scale and their classification to do work to reflect the skills. Some of them learn extremely fast and do extremely well. We do not expect them just to sit and wait, because we would lose them.

MS CODY: Thank you, that is great. Just following on from that. I must say that I am very impressed with your gender balance in the office. It is very impressive. On a head count, it is 50-50. That is wonderful; congratulations! I was also looking at your temporary full-time staff. Would they be classified as contractors?

Mr Sharma: They would be the staff members that are on short-term contracts.

MS CODY: Short-term contracts.

Mr Sharma: They could either be recruited on the basis of the government short-term contract or they could be consultants that we employ from the firms. But the ones that are classified in here are only short-term contracts.

Dr Cooper: We have a deliberate strategy of using consultants and contractors. It is to minimise our risk because we do have a high turnover and we do try and retain staff where we can. But we have some features against us. We are a small office, a very strong competitor. We do train up well. They do develop well.

In the last year we have actually found that we took on a fair few senior staff that were ex-ANAO in the performance audit area. But they got to a stage where they had some health issues and retired. In the FA area, at the other end of the spectrum, we usually have young graduates, and they are quite keen to try different things in the workforce. So we often lose them. But we now accept that in the way we work and then try and just manage it through contractors and consultants but also, where we can, we foster the ability of the staff.

THE CHAIR: Mr Coe.

MR COE: I am very tempted to delve into some of the issues in the actual reports, but I know, of course, that the public accounts committee will have a briefing at a later date on those; so I will resist the temptation. More generally with regard to the reports, particularly the performance audit reports, what consideration has been given by the office to go more down the New South Wales audit office approach on presentation, which is, I guess, far more succinct reports with often hefty appendices

that contain a lot more of the detail to make them far more succinct and perhaps more accessible?

Dr Cooper: We are always open to looking at how we present. What we try to do is to make our skinny report the summary chapter. We hope that most readers can pick up the front summary chapter in the report, read that and understand it. That is how we cope.

The other thing is that I find—it is a preference thing of mine—in small jurisdiction ACT, our reports should have enough information in them to speak for themselves because if I then had a smaller report that I felt I had to go out and speak to, I think that the messages could get quite confused in terms of dealing with the media in small ACT.

I have balanced a report speaking for itself with a summary chapter. We could easily take that out and produce it separately, but it is there anyway, which may align with the New South Wales reports; it may not.

MR COE: In some ways it is inevitable, but there often appears to be some repetition in the reports.

Dr Cooper: There is.

MR COE: I understand the reason for that, but I think to people who are not across the reports, or who read a particular report because they are interested in that subject, may not grasp the reason for that repetition. To that end, I wonder whether they can be confusing for occasional readers.

Dr Cooper: If you were a reader that started at the beginning and went to the end, I would say yes. We actually asked this question and we had some communicators in. But most people do not do that. Most people just—

THE CHAIR: Stop at the end of this chapter.

Dr Cooper: Stop at the end of the summary. Also—

MR COE: CTRL F on the keyboard.

Dr Cooper: And also, therefore, that works for most people. Agree, if you read it from the beginning to end, it is three times. It is in the summary, it can then be in a summary in one of the chapters and then in the chapter. But according to how most people read it, the IT and the information we had, it works. But always open to relook at it.

MR COE: I realise you cannot please everyone in this business in terms of how you present it. So it is tricky.

Mr Stanton: I will add to that. Certainly in support of what Dr Cooper said, a key finding paragraph will appear three times in the report. There is certainly that repetition and the conclusion will appear at the start of the chapter. We did engage

consultants a couple of years ago to advise us on this report and they consulted widely. We have actually set up our reports to eventually, if we can, move to html reporting online on a chapter-by-chapter basis. So if we actually go down that particular path, the report infrastructure is there to facilitate that.

The other thing I would also add is that through the reporting process we engage very heavily with the auditees, of course who always have a preference, if we cannot resolve a particular issue, to put both sides of the issue in the report. We will make it as clear as possible that there is a difference of opinion but that our opinion is X or Y, but we will put both of those in the report. So we do not shy away from actually putting all that detail in the report.

Dr Cooper: But, agree, there are upsides and downsides. We will be willing, if the committee thinks, to go back and look at it again. That is where we went through and spent months analysing what would work for most people most of the time and what would also work for the auditee to have respect, that we just did not put our opinion. We also allowed their views to come forward.

Mr Stanton: There is also a consideration on the part of the executive and staff of the performance audit team to try to write as clearly and succinctly as possible, as logically as possible and with as much brevity as possible as well.

Dr Cooper: And, also, in our review we were talking to the reviewer. We have learnt a bit just through the process of the review. He actually counselled that maybe I could get different sorts of scales of audits. Then I said to him, “Over the last year, which ones wouldn’t you do?” He said, “Well, you’ve picked all complex ones.” I said, “Yes, because when you’ve got a limited number to do, you will pick the complex ones that are most pertinent to the community.” We have found that with some of those we have to have those back chapters explaining some of the technical for where we try to take it forward in the key findings in what we call an intelligent Legislative Assembly lay language.

MR COE: I have one other issue. With regard to the health data, in a letter to my colleague Jeremy Hanson, I understand that the audit office advised that ACT Health were going to provide you with an update in six months’ time on the implementation of improvements in the recording of data, particularly emergency data. I was wondering whether that is relevant to the potential performance audit you are looking at?

Dr Cooper: All of it is relevant. There is just so much happening in the health space that we are trying to look at all the different pieces of information and then target which would be the appropriate, which is why I said we might do more than one audit.

MR COE: Sure.

THE CHAIR: Is this about health data because Mr Hanson wrote to you in August—

Dr Cooper: It is a mix. There is a mix of things, Madam Chair. Some of them intersect and it is at this point in time that I am not willing to commit to what area we are looking, but we are looking right across a suite of things that have been brought to

our attention.

MS CODY: And that is for this financial year, is it? You are talking—

Dr Cooper: We would be looking to possibly move on an audit, start an audit in the near future, if we move that way. I emphasise that it is potential performance, if I can.

MS CODY: No, that is okay. I thought we were talking about another financial year.

THE CHAIR: The minister in February made a statement in the Assembly about a root and branch review of health data, but she also mentioned in passing that she would be consulting, or that Health would be consulting, with you. That may be a slight verballing but there was mention of you being involved in some way. But what you might do in relation to a performance audit or audits is completely separate?

Dr Cooper: Completely separate.

THE CHAIR: But somewhat related?

Dr Cooper: It could be, but at this point in time, Health is certainly being cooperative. We have also recently—not that long ago—sent a whole lot of questions to them. We are waiting for answers to that. We have also had material presented to us through representations, potentially PIDs. We are looking at that. We just have quite a volume of information. Also, too, we did ask for a report back in February to your predecessor. We said we would ask them for that. There is just a huge volume of information that we are looking at at the moment.

THE CHAIR: And you also wrote to me and that went to the public accounts committee about—

Dr Cooper: That is right.

THE CHAIR: About the lack of ROGS data.

Dr Cooper: That is right.

THE CHAIR: Is that all connected?

Dr Cooper: That is all being considered at the moment in terms of what would be the most productive thing for audit to focus on if we did a performance audit. And we will respect the review that is being done, but that would not stop us if we felt there was a particular area that we needed to examine. It would not stop us doing that.

MS LE COUTEUR: First off, you mentioned that you are going to do a continuing audit after the LDA audit. Have you any timing and scope for that? You mentioned it in your introductory remarks.

Dr Cooper: It is not continuing. We said we would do another audit in the LDA potential space. It may be on a different issue that they manage. In fact, it is likely to be on a different issue. We would also be looking to start that off in the near future

because that is where we will be investing some of our accumulated funds.

MS LE COUTEUR: It will not be about land acquisition? It will be about something else? I had assumed that because, there is plenty of land acquisition, clearly you did not consider—

Dr Cooper: There are different processes.

MS LE COUTEUR: They did not only buy a bit of land in Glebe Park.

Dr Cooper: It could be about land acquisition under a different mechanism. Again, because of the research that we are doing, we are looking at what are the options that would be best value for the Legislative Assembly and the community to look at. Where are some of the higher risks that so far have not had our scrutiny?

Mr Stanton: We are actively planning and scoping that right now and have been for weeks and weeks since the Christmas break.

MS LE COUTEUR: When are we likely to know what is coming in?

Dr Cooper: Probably in a month or so, because we will respect the agencies and we will talk to them first and talk around our thoughts. In terms of Health, we are absolutely doing one which was programmed on mental health at the moment.

MS LE COUTEUR: I understand you are a public interest disclosure agency. Looking at the legislation, I understand that you have to refer disclosures to the Chief Police Officer if satisfied on reasonable grounds that what is disclosed potentially could involve an offence. Have you ever referred anything to the Chief Police Officer? Is this normal, unusual or most of the time?

Dr Cooper: We have never referred anything. We have never had the evidence to do that.

MS LE COUTEUR: Would it be sometimes you think that that is a possibility but you are not in a position to have the evidence?

Dr Cooper: If in doubt, we would have, even without evidence. But at the moment we have not done that.

MS CODY: Following on from that, I notice that you mention in the 2015-16 annual report that there were four—

Dr Cooper: Could you give us the page number, please?

MS CODY: Yes, certainly, page 64.

Dr Cooper: Thank you.

MS CODY: There were four public interest disclosures receive, and there were only two that you investigated. Is that correct?

Dr Cooper: That is right. They were what Ms Le Couteur just said. Under the legislation we refer them to the appropriate agency. The problem we often have is that people will contact our office and they do not want the agency to actually do the investigation. But then we cannot refer information across if they do not agree to it. If they agree, we can refer the information without their name but sometimes, by just referring the information, the agency can determine who they are. It gets very complicated, but we go to a great deal of trouble to refer it across, because they actually have the information. Then often what they will do is investigate and then let us know the outcome, and we will just read that report. Mostly, they do it by somebody independent of their organisation. We are really not a monitoring agency, but we just check.

MS CODY: Following on from that, I noticed in the last part of the table on page 65 the reference to the number of public interest disclosures substantiated by investigation, and there was one. Was that investigation by the agency or by you?

Dr Cooper: That was the education one, I think.

MS CODY: Yes that was the education one.

Dr Cooper: No, that was one we did. Education referred that one back to us. We have to legally refer it to them. There is no power that I can say, "I'll just do the review." We have to refer it. They referred it back. That particular one was to do with staffing at a school and there was one issue. We certainly found that there were a lot of allegations made that were unfounded.

Mr Stanton: May I suggest, page 66 provides more detailed information than the table.

MS CODY: Thank you.

Dr Cooper: And what we then do is make very clear to the head, as occurred in this, the education directorate, what has been found. It is quite independently found. And then they have to apply the relevant section, in this case, of the Public Sector Management Act.

THE CHAIR: How broadly do you interpret the public sector? For instance, if an issue comes to you where someone might not be a public servant but they might be acting for an NGO or something like that which is fully funded by the government, does that come within the—

Dr Cooper: I would take legal advice on whether that came within the PID arrangement. It certainly could come on issues within the performance audit arena—follow the dollar—if they were in receipt of money or whether it is some process issue. I would take legal advice before I would answer that.

Mr Sheville: Clearly, the nature of the person or entity making the representation or disclosure is not important in that instance. It is the subject matter, of course.

Dr Cooper: Yes. But if they were doing something inappropriate—I am not sure—I would take some advice, yes.

THE CHAIR: You noted that in relation to the audit findings into credit card use the department of health had not resolved those issues. Could somebody talk me through the process and is it still outstanding? I am mindful this was a report made last June.

Mr Sheville: Are you referring to the conclusions in relation to the credit card audit?

THE CHAIR: Yes.

Mr Sheville: We completed that audit more or less about June 2016. We reported it as we knew at that particular point in time in relation to the actions or non-actions of the agencies. Once we completed that report, we put that information out there. We have not undertaken any monitoring of the agencies, updates, improvements to their credit card governance, administrative arrangements since then.

Dr Cooper: The answer simply is: we do not know what they have done.

THE CHAIR: It will be something to take up with the agency?

Dr Cooper: Absolutely.

MS CODY: And that goes for all of the—

Dr Cooper: All of the recommendations, yes. We do not do follow-up to see. Often the public accounts committee actually asks for them to report.

MR COE: Just on that last issue, are there any models of auditors-general elsewhere that do have a follow-up mechanism of some sort?

Dr Cooper: Not on every audit, but some of them actually do follow up audits to see how well things have been implemented.

MR COE: But a stand-alone audit as opposed to an automatic review?

Dr Cooper: And sometimes for some of them, I understand, some agencies actually tell them where the status is. For instance, with Commissioner Lane, that was clearly a powerful audit for everyone, and he has embraced that audit. He has informally briefed us at different times. He has even brought in the strategic plan to show us how he has responded to different recommendations. But he would be abnormal in terms of the processes that apply.

Mr Sheville: With most agencies' internal audit review committees, one of the things that the committees do as a matter of standard practice is monitor implementation of Auditor-General recommendations. In addition to monitoring the recommendations that are made by their own internal audit function, often they have a list and they seek comments from management as to whether they have actually implemented the findings or the rest of the recommendations of the audit.

THE CHAIR: Would all agencies have an internal audit committee?

Dr Cooper: They should do.

Mr Sheville: It is better practice.

Dr Cooper: It is better practice.

Mr Sheville: Most of the larger ones do. I know that.

Dr Cooper: For instance, our audit and review committee monitors closely the recommendations from audits including the strategic review, including questioning us in terms of the mechanism and how we actually did it, not just, “Oh, you’ve done it.” They really interrogate us, which is right and proper.

MS CODY: Just following on from this, I notice you mentioned that Commissioner Lane provided you with briefings et cetera, informal and possibly formal. But no-one else has provided you with responses?

Dr Cooper: If we wanted them, I think they would. But the volume of work for us would be overpowering. The thing that happened with that particular audit was that right through it there was a lot of sharing of findings as we went through. And they were pretty significant. The commissioner would look at them and he was actually implementing them before our report was even published. He sort of embraced the audit process at the most senior level in a way that is normally not taken on board in the process. Normally it is at the lower level. We do the audit and we give it to them. It was quite a different process.

THE CHAIR: Thank you very much for your attendance. We expect you back fairly soon in a slightly different format.

The committee adjourned at 5.08 pm.