

## CHAPTER 9

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### ADMINISTRATIVE CAPACITY

1. The Commonwealth's *Norfolk Island Act 1979* is the basis of self government on Norfolk Island. It created the Norfolk Island Legislative Assembly and an executive administration supported by a professional public service, based on the Westminster parliamentary model. The Act gave the Assembly law making powers over a range of issues previously within the purview of the Island Administrator. They were mainly State and local government type powers but included some that are normally reserved to the Commonwealth. The range of executive or legislative powers of the Assembly has been extended on several occasions since then. The responsibilities the Assembly now holds require a substantial administrative capacity for the community to be served effectively.

2. This chapter discusses the administrative functions and structures within which the Norfolk Island Government operates and looks at how they affect its ability to perform functions, both now and under a further possible transfer of power. It examines the resources available in the community to support these functions, by way of institutional structures, people and expertise.

### COMMONWEALTH ADMINISTRATION ISSUES

#### *The Office of the Administrator and the Territories Office*

3. To facilitate the administration of Norfolk Island, the Commonwealth maintains an Administrator and staff on the Island, and what is usually referred to as the 'Territories Office' in Canberra — part of the Department of the Environment, Sport and Territories. On Norfolk, there are five office staff (including the Administrator) and two full time equivalent domestic/non-office staff. The Administrator and the Official Secretary are on short term contracts from the mainland, but the others are locally engaged and are seconded from the Norfolk Island Public Service. Because no income tax is payable on Norfolk Island, all staff in the Office of the Administrator are paid at lower than equivalent salary rates on the mainland. In the fiscus provided in Chapter 5, \$635 000 of the on-Island expenditure of the Administrator's Office in 1995-96 has been attributable to the administration of Norfolk Island.

4. The Territories Office is responsible for providing policy advice relating to all Australia's Territories. It has 33 staff in Canberra and attributed \$198 000 of its expenditure in 1995-96 to Norfolk Island. In total therefore, it has been assumed that, in 1995-96, the Territories Office spends \$833 000 on the administration of Norfolk Island.

5. At present, the Territories Office staff (with the assistance of the Island's Administrator) are expected to be able to brief the Minister on the full range of political, economic and social issues that arise on the Island. They are expected to understand and give advice on a wider range of public activities than most other groups in the Commonwealth public service.

6. In general, it can be said that, with the exception of the Territories Office, Commonwealth agencies do not give sufficient thought to Norfolk, the third self governing Territory in the Commonwealth, and it is often considered, if at all, either by implication or as an afterthought. Given its small population, this is perhaps understandable, but it does create administrative problems for both the Territories Office and the Norfolk Island community. The task of the Territories Office in keeping the Island informed is not easy but more effort, perhaps by that body, but preferably by the wider group of Commonwealth agencies, should be made.

7. Territories Office staff visit Norfolk Island about five times a year for three meetings of the KAVHA Board and to prepare for and then attend an intergovernment meeting between the Minister for Sport, Territories and Local Government and the Norfolk Island Assembly. The aim is to hold intergovernment meetings about every six months but this frequency is rarely achieved. The Territories Office staff have little contact with the Members of the Norfolk Island Assembly and tend to work through the Administrator and a small number of Norfolk Island's senior public servants. While the Territories Office staff cannot always express a Commonwealth Government opinion, we think there would be benefits if they could have a more open approach in their dealings with the people on Norfolk Island. On the Island's part, there may well be unrealistic expectations of what is feasible or what degree of priority can be given by the Commonwealth to Norfolk Island issues. For whatever reason, there is evidently a fair amount of mistrust on both sides and it is making the administration of the Island more difficult than it need be.

#### *Commonwealth Parliamentary Representation*

8. As a result of consultations with the Island community, Norfolk is a special case under the Commonwealth Electoral Act and voting in Commonwealth elections is optional for those eligible to vote and living on Norfolk Island. Island residents may enrol in a Commonwealth electorate with which they can establish a connection, or otherwise the electorate of Canberra and, as for other Australians, voting is compulsory once they are enrolled. This situation is unique in Australia and seems reasonably well tailored to the circumstances of the Norfolk Island community. However, it does mean that Norfolk Island has no representative responsible for it in the Commonwealth Parliament, either in the House of Representatives or the Senate.

9. One effect of this is that, unlike elsewhere in Australia, Norfolk Islanders have no specific Commonwealth representative to whom they can address matters of

concern or grievances, or from whom they can seek information or assistance. This seems anomalous when, ultimately, all Government decisions relating to Norfolk Island are made under the authority of the Commonwealth Parliament. Although the current arrangements in the *Electoral Act* do seem to be what the Norfolk community wants, it is still possible that not having an identifiable representative in the Commonwealth Parliament is, at least in part, fuelling the belief of some residents that the Commonwealth is authoritarian and does not consider their interests.

10. Norfolk Island does, however, have a representational voice into the Commonwealth Government through the intergovernment discussions that the Norfolk Island Government has with the Commonwealth Minister for Sport, Territories and Local Government. This is not, perhaps, a substitute for individual voters being able to go to 'their representative', but it does allow those on the Island making decisions for the Norfolk Island community to know something of what is happening at the national level.

#### *Application of Commonwealth Legislation*

11. The lack of opportunity to access a Commonwealth Member other than the relevant Minister is important because, as shown in Table 9-1, the people on Norfolk Island are subject to a considerable and increasing number of Commonwealth laws which make explicit provisions for their application to the Territory. In addition, there is some legislation, such as the recently agreed national gun laws, which, although a State and Territory responsibility, involves matters of the national interest and is debated at the national parliamentary and executive level. The assumption on the mainland (often without consultation with Norfolk) is that such legislation would be applied on the Island.

**Table 9-1** COMMONWEALTH ACTS EXPLICITLY APPLYING ON NORFOLK ISLAND

Year	Number
1935	15
1965	91
1979	121
1989	210
1995	238

Source: The Association of Norfolk Islanders submission and Territories Office estimates.

12. It could also be that the people and Government of Norfolk Island are at a disadvantage because it is not clear what Commonwealth legislation applies in the Territory. The Commonwealth has been unable (or unwilling due to cost) to give the Norfolk Island Government a consolidated list of all Commonwealth legislation that applies on Norfolk Island. This may be due to the applicability of Commonwealth legislation being

unclear, either because its application is implied or has not been tested in court, or because the possibility of its application is based on it being cross-referenced in 'applicable' legislation. Apparently, there have even been cases in the past where amendments to Commonwealth legislation have specified their applicability to Norfolk, even though the original Act was not applicable.

#### *Australian Executive Government*

13. On most matters of a national interest or affecting a number of States or Territories, the Commonwealth, the States and the Territories consult through a range of forums. These include the Premiers' Conference, the Council of Australian Governments and a large number of Ministerial Councils. Such forums provide an opportunity for all parties to address matters of importance to the whole of Australia and to put forward issues specific to their own jurisdiction's concerns and interests.

14. The Norfolk Island Government is a member of or has observer status in only a few of these forums, including the Tourism Ministers' Council, the Standing Committee of Attorneys-General and the Ministerial Council on Employment, Education, Training and Youth Affairs. It does not participate in Commonwealth/State revenue sharing arrangements discussed at the annual Premiers' Conference, or in the mechanisms and consultative processes supporting those arrangements. The Territories Office does what it can to ensure that Commonwealth agencies keep Norfolk Island informed, but we received complaints that Norfolk Island is not always consulted on the development of national policies and legislation with potential to affect it.

15. An example of this could be airline services and the application of the Commonwealth's open skies policy to Norfolk Island without what some on Norfolk believe to have been sufficient consideration of the Island's special circumstances. Given the importance of tourism to the Island economy and the importance of air services to the tourist industry, airline policy and its implementation should be a matter for further discussion by the Commonwealth and Norfolk Island governments.

### **NORFOLK ISLAND REPRESENTATION AND LEGISLATURE**

#### *Local Representation*

16. The *Norfolk Island Act 1979* provides for an elected nine member Legislative Assembly, and for elections at least every three years, thus broadly following the recommendations of the Nimmo Royal Commission. The whole of the Island forms one electorate. Voting for the Legislative Assembly is compulsory. To be eligible to vote, a person must be eighteen years old or more and have been living on Norfolk Island for 150 days if previously on the electoral role or, if not, at least 900 days during the previous four years. These rules are applied to everyone on the Island. Australian citizens who do not pass the eligibility rules cannot vote, and non-Australian citizens who pass the rules can vote. There are about 1130 people on the electoral roll.

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17. The electoral system, known as the 'Illinois' system after the State in the USA, provides for each elector to have as many votes as there are vacancies, and for a maximum of four votes to be given to any one candidate. This is not the system of first choice for many living on the Island who regard it as sometimes delivering unpredictable results, contrary to the wishes of voters. A one-elector-one-vote, first-past-the-post arrangement, traditional for Islanders of Pitcairn descent, was said by some to be preferred.

18. Any person ordinarily resident on the Island for five years and eligible to vote can be elected as a Member of the Assembly. The Norfolk Island Electoral Act therefore can, and does, result in non-Australian citizens who are elected to the Assembly making decisions on behalf of Australian citizens who are prevented from voting. Positions on the Assembly are not full time and it is expected that representatives will continue their previous employment. These arrangements increase the chances of conflicts of interest arising for those elected, particularly Executive Members (Ministers). The arrangements may also be preventing some residents employed in the private sector from standing for public office. Members of the Public Service, if elected, need not leave their employed positions and can be both elected representatives and employees of the elected representatives. This is a highly unusual practice that does not apply in other Australian jurisdictions because it is difficult to be both master and servant and the potential for conflicts of interest is great.

19. There do not appear to be any formal mechanisms in place on Norfolk to deal with any conflicts of interest that might result from the arrangements described above, although the *Norfolk Island Act 1979* states in Section 39(3) that:

a member of the Legislative Assembly who is a party to, or has a direct or indirect interest in, a contract made by or on behalf of the Commonwealth or the Administration under which goods or services are to be supplied to the Commonwealth or the Administration shall not take part in a discussion of a matter, or vote on a question, in the Legislative Assembly where the matter or question relates directly or indirectly to that contract.

The administration of the Territory would benefit from a more detailed set of procedures or rules on how conflict of interest is to be handled. At a minimum, some Assembly guidelines are needed.

20. Four of the elected Members (usually those who received the greatest number of votes) are chosen by the Assembly for Executive positions. One of the Executive Members holds the position of Chief Minister. Public servants elected to the Assembly cannot be elected to Executive positions but can be elected Speaker of the Assembly.

21. Matters can be brought to the attention of the House by Ministers or Members (including the Speaker if a non-Executive Member), or by petition by one or more electors. A referendum can be initiated by the Commonwealth Minister, the Assembly or by petition of not less than one third of the electors.

22. There are no political parties on the Island and there is little electoral campaigning. All candidates stand as independents and they generally do not use either the

government owned radio station or the privately owned weekly newspaper, *The Norfolk Islander*, to debate political issues. There is no attempt by the Executive Members to form a Government position on issues but it is the expected practice for Executive Members to inform their colleagues of the legislation they are taking to the House. Election issues tend to be of a local government nature and, in many ways, elections are conducted like those for a municipal council. Members are very accessible to their electors.

### *The Legislative Assembly and its Powers*

23. Under the *Norfolk Island Act 1979*, the Legislative Assembly is empowered 'to make laws for the peace, order and good governance of the Territory', but not for unjust acquisition of property, defence forces, the coinage of money or (as a result of a recent amendment) to effect euthanasia. Within this ambit, the range of matters on which the Assembly can propose laws is technically unlimited but, in practice, is subject to the assent arrangements for legislation. The explicit areas of responsibility of Norfolk Island are set out in Schedules 2 and 3 to the Act, a copy of which is provided at Attachment E.

24. *The Assembly's legislative powers.* Most of the powers of the Norfolk Island Government are listed in Schedule 2 to the Act. Those singled out for specification in Schedule 3 are the functions for which the Nimmo Royal Commission recommended that the Commonwealth 'lay down a clear set of policies to be followed in the administration of Norfolk Island' and which the Commonwealth regards as having particular sensitivity and national importance.

25. Assent to laws relating solely to matters in Schedule 2 to the Act is the responsibility of the Administrator on the advice of the Island's Executive Council. Assent to laws affecting matters in Schedule 3 is the responsibility of the Administrator acting in accordance with the instructions of the Commonwealth Minister responsible for the Act. Responsibility for assent to laws affecting all other matters lies with the Governor-General.

26. In addition, the Governor-General may introduce any legislation into the Assembly, make Ordinances that override local law made under the authority of the *Norfolk Island Act 1979*, and disallow or amend a local law. The Governor-General has similar powers to these in all Australian Territories. In the case of Norfolk Island, this power has never been used.

27. One of the stated aims of the legislative arrangements when they were introduced in 1979 was to overcome what were often long delays in the drafting and consideration of Commonwealth Ordinances for the Island. Leaving aside the areas where no legislation has been introduced to the Assembly, that objective appears to have been largely achieved.

28. *Operation of the Assembly.* The extent of change in Assembly membership after each election causes problems of discontinuity in the legislative process and the development of the community. There have been eight elections since 1979, with 38 different people serving on the Assembly in those 18 years. Over 20 of the 38 have held Executive office. After a typical election, around half the representatives have not served on the previous Assembly and on only two occasions has a sitting Executive Member been

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re-elected and re-appointed to the Executive. Five members of the present Assembly have served in three or more previous Assemblies (although not always sequential) and one has served continuously since self government, but only four were in the previous Assembly. Of the nine current Members, only two have not had experience as an Executive Member. The Speaker (renamed from President of the Assembly in 1995) is supported by a Clerk and an administrative officer, and there is a Secretary to Government who acts as the private secretary to all four Executive Members. Attachment F shows the composition of each of the eight Assemblies.

29. In the absence of political parties, and in such a small assembly, much of the apparatus normally associated with a Westminster style parliament is absent. There are no Government and Opposition benches, whips or leaders of business. The role of Speaker is, as a matter of custom, given to the candidate who gained the most votes in the most recent general election. As a result, it is generally occupied by the Chief Minister or a non-executive Member who is also a public servant. The present Chief Minister is also Speaker. The Speaker votes as any other member, but vacates the chair if he or she wishes to take an active part in debate.

30. The Assembly normally begins its sessions (that are usually of a day's duration but are longer if necessary) on the third Wednesday of each month, but meets twice in June and does not meet in January. A hansard record of the sessions is taken and the proceedings broadcast. Members also meet in 'informal' sessions at which they discuss the issues and prepare to formalise their decisions at the next sitting of the Assembly. At present, the members meet in this manner every Friday afternoon. These meetings seem to be as important to the process of government as the formal Assembly sessions. During Budget preparation, informal meetings are used for members to go through the budget proposals 'line by line' so that the revised budget can be more briefly discussed, then passed, by the Assembly.

31. The executive business of government is carried out by the whole Assembly, which can (and has been known to) remove specific executive powers from particular executive members. There is no cabinet but, in some ways, the informal meetings of Members operate as a 'cabinet of the whole'. As a result, combined with the absence of political parties, there is often no clear distinction between the Assembly and the executive government. Legislation or resolutions are, by custom, introduced by the Executive Member responsible for the power that it is proposed the Assembly use. But the only restriction on Members introducing legislation is that proposals relating to taxation must be introduced by an Executive Member (though this need not be the Minister for Finance). Sometimes, non-executive Members have a role in assisting Executive Members with some of their functions.

32. Executive Members of the Assembly carry a considerable workload in terms of sittings, official meetings of the Executive, other discussions, understanding and monitoring a range of services within the community and meeting with the constituents. They appear to work close to or, in at least the Chief Minister's case, more than a full time week on public duties. Their workload seems to be greater than that of mayors of Victorian local government authorities (part time positions), and closer to that of Ministers in the ACT and Northern Territory Governments (full time positions). Their responsibilities are certainly as wide as those of Ministers of the mainland Territories. The remuneration level

of the Chief Minister is \$37 637 and that of the other Executive Members is \$28 360. By contrast, the mayoral allowances paid in Victoria range from \$25 000 to \$82 000 and the Ministers in the mainland self governing Territories are paid \$97 875 in the ACT and \$125 437 in the Northern Territory. Even though the salaries on Norfolk are not subject to income tax, we conclude that Executive Members of the Norfolk Island Assembly are not well paid for their efforts.

33. The duties of the non-executive Members of the Assembly seem to be similar to those of Councillors in Victoria where councils usually meet about once a month and committees meet three to four times a month, and Councillors are paid an allowance of between \$5000 and \$12 000. The tax free salary of the non-executive Members of the Assembly, at \$8508, is at the mid-point of the Victorian Councillors' allowance and appears to be generally satisfactory, except that those who assist Executive Members may be relatively underpaid.

34. These comparisons are of particular interest when they are related to the difference between the range of responsibilities of the Norfolk Island Government and that of Victorian local government councils. The range is obviously much greater on Norfolk. The levels of parliamentary remuneration on Norfolk are set by a Tribunal, apparently on an assumption that even the Executive positions are part time. There is a question whether the salary levels are high enough, given the required time commitment; and a secondary question whether this is precluding some able members of the community from standing for election.

35. Naturally, the workings of the electoral system and the Assembly are not without criticism. As conveyed to us, the major areas of difficulty perceived by the community are that:

- the big changes in Assembly and Executive membership after each election slow decision making and make long term planning difficult;
- the change in membership causes discussion of many issues to be started in a number of Assemblies before they are dealt with;
- there are no guidelines or formal procedures for handling conflicts of interest, yet these are more likely in a small community;
- 'independent' members are not answerable to a community based or parliamentary group that might minimise the extent to which decisions could be influenced by their other (commercial or social) interests;
- the informal nature of many of the Assembly's operations, and the lack of a formal committee structure, do not always give sufficient transparency of government; and
- the Assembly does not have the time or administrative support under the current arrangements to cover its areas of responsibility sufficiently well.



*Norfolk Island Law*

36. The sources and precedence of Norfolk Island law are:

- (i) Commonwealth law in force on the Island;
- (ii) ordinances of the Governor-General made under the *Norfolk Island Act 1979* (although no such ordinances have been made);
- (iii) enactments of the Legislative Assembly authorised by the *Norfolk Island Act 1979*; and
- (iv) principles of common law and equity.

37. There are also some bodies of older law, including imperial statutes and laws in force in England as at 28 July 1828, which are still in effect on Norfolk. However, these are becoming less important as new legislation is enacted.

38. The present state of law on the Island is of some concern. The position is similar to that of the ACT and the Northern Territory before the granting of self government to those Territories, in that much antiquated law technically still applied. The 1991 *Islands in the Sun Report*<sup>1</sup> concluded that, while 'wholesale reform' was not necessary on Norfolk Island, some review and revision was required to some aspects of the legal and administrative regime. No systematic process of review has yet been put in place.

39. At the end of the previous Assembly in April 1997, there were only a small number of Bills that had not been dealt with and were passed to the incoming Members for further consideration. However, there seems to be a considerable body of legislation that is either considered necessary, available for discussion in proposal or draft form, or awaited by service providers. Some of the 'outstanding' pieces of legislation mentioned to the Commission were a new Crimes Act, a new Public Service Act, Employee Relations legislation, aspects of motor vehicle and traffic control, Public Health legislation, bankruptcy legislation and an Administrative review mechanism to cover areas other than land matters. The procedures for deciding what legislation needs to be brought before the Assembly, and how it is developed so that it can be presented, do not seem to be well established. We believe the community would benefit if this aspect of public administration were covered in the Government's long term planning.

40. Unless Norfolk Island can provide the professional and administrative resources to undertake an overall review of its legislation, and the Assembly extends its sittings to ensure that new and amended legislation is passed where necessary, the potential will remain for problems associated with outmoded and irrelevant laws to arise. No overall review of Norfolk Island's legislation is likely to occur unless the Commonwealth assists in the task, either by the provision of staff on secondment or by financial assistance.

41. There is a further range of matters on which the Norfolk Island Assembly has the power to legislate but has not done so. It may be that the need for legislation in

<sup>1</sup> *Islands in the Sun*, Inquiry of the House of Representatives Standing Committee on Legal and Constitutional Affairs into the Legal regimes of Australia's External Territories and the Jervis Bay Territory, 1991.

these areas has been considered and found unnecessary, but there is applicable legislation in all other parts of Australia and it would be surprising if some need for them did not exist on Norfolk Island. These matters are listed at the end of Chapter 6. Many are intended to provide for the safety and protection of the community, property and the environment.

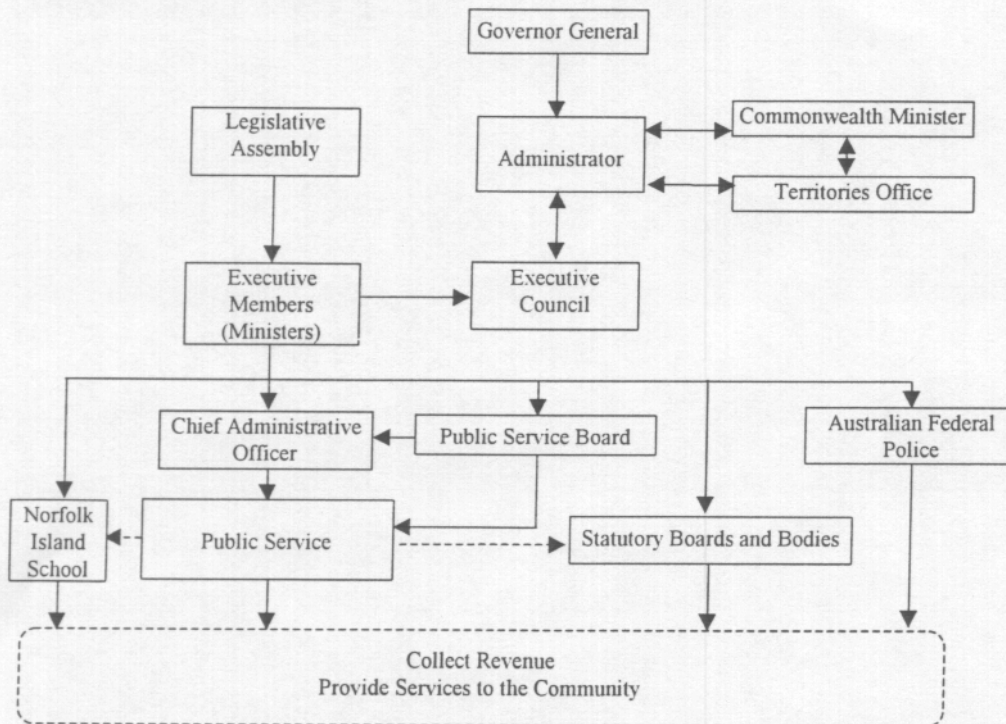
### NORFOLK ISLAND GOVERNMENT STRUCTURES

#### Local Executive Government

42. The machinery of government put into place for Norfolk Island in 1979 was, in practice, a continuation of that existing beforehand in the Commonwealth's Island Administration. However, there were additional features because of the legislative and executive powers given to the Assembly, and the changing of responsibility for the Public Service from the Administrator to the elected Members.

43. The executive arrangements are set out in Figure 9-1.

Figure 9-1 NORFOLK ISLAND EXECUTIVE MACHINERY



44. **Executive Council.** Executive authority continues to be vested in the Administrator who is appointed by the Commonwealth, but the occupant is obliged generally to act on the advice of the Island's Executive Council. In this, the Administrator functions very much like a State Governor, though the Governor-General retains overriding powers. The Administrator must follow the advice of the Executive Council on the matters listed at Schedule 2 to the Act, and must also follow Executive Council advice on Schedule 3 matters unless otherwise instructed by the Minister for Sport, Territories and Local Government.

45. The Executive Council is made up of the four Executive Members but its meetings can be attended by all Members of the Assembly. Executive Council meetings are convened by the Administrator. It is regarded as the formal conduit for the Assembly's views to be conveyed to the Administrator, and usually meets monthly in the week after the Assembly sitting. The specific executive powers of Ministers are created by Acts and Ordinances, and relate generally to routine and regulatory matters under the legislation. Because of the organisational structure of the Public Service, Ministers have very limited power to direct staff other than the Chief Administrative Officer (CAO), the head of the Public Service, although in some circumstances they can direct the staff of statutory bodies. Clarifying authorities and responsibilities in the Norfolk Island public sector would be beneficial to its efficient operation.

46. The present allocation of responsibilities to Ministers is shown in Table 9.2.

**Table 9-2** RESPONSIBILITIES OF NORFOLK ISLAND MINISTERS

Chief Minister and Minister for Finance and Strategic Planning	Minister for Health and Immigration	Minister for Tourism and Commerce	Minister For Community and Resource Management
Intergovernmental Business Public monies Customs Government Business Enterprises Lotteries and Fund-Raising Broadcasting and Television Strategic Planning Public Service Education	Hospital Enterprise Legal Matters Law and Order Social Welfare Immigration Emergency Services	Tourism and Transport Commerce and Industry employment and Industrial Relations Civil Works Sport and Recreation	Environment Lands and Buildings Forestry Waste Management Fishing Firearms Community and Culture KAVHA and Museums Quarrying

**Norfolk Island Public Service**

47. The Public Service of Norfolk Island was established under Norfolk Island's *Public Service Act 1979*, continuing the earlier Norfolk Island Public Service that employed most staff supporting the previous Administration. Employees of the Hospital Enterprise and the Government Tourist Bureau are employed under separate enabling legislation and

are not seen on the Island as being public servants. Together, these three groups of employees attempt to provide, either direct or through contracts and the use of consultants, the full range of services for which the Government has legislated or is considering legislation. There are about 190 people employed under the Public Service Act, about 20 full time equivalent staff (FTEs) at the hospital and about eight FTEs at the Tourist Bureau. In addition, about 20 staff are provided under contract by the New South Wales Education Department to provide most of the staffing for the school, and three officers of the Australian Federal Police are stationed on the Island to provide Commonwealth and Territorial police services.

**Table 9-3 PUBLIC SECTOR WORKFORCE, ALL LEVELS OF GOVERNMENT**

	Public sector workforce	
	No.	% of workforce
<b>Mainland (1995 figures)</b>		
New South Wales	480 800	17.8
Victoria	340 900	17.0
Queensland	262 200	17.8
Western Australia	147 800	18.1
South Australia	120 600	18.7
Tasmania	41 900	21.3
Australian Capital Territory	71 900	47.2
Northern Territory	20 900	25.6
<b>Total mainland</b>	<b>1 487 100</b>	<b>18.4</b>
<b>Norfolk Island (1996 figures)</b>		
Public Service	190	
Tourist Bureau	8	
Hospital	20	
School	19	
Police	3	
Administrator's Office	4	
Territories Office	4	
<b>Total Norfolk Island</b>	<b>248</b>	<b>23.0</b>

Note: The public sector workforce is those working either in general government or public trading enterprises. The total workforce is the average labour force for the months January to March 1995.

Sources: Australian Bureau of Statistics, Catalogue 6248.0, *Employed Wage and Salary Earners, Australia*, March Quarter 1995; Australian Bureau of Statistics, Catalogue 6203.0, *Labour Force, Australia*, January to March Quarter 1995 Norfolk Island Government Submission; Norfolk Island Census 1996.

48. The public sector staff to population ratio on Norfolk Island is broadly in line with mainland experience. Table 9-3 shows that, for the States, the percentage of the total workforce in the public sector increases as population decreases (due to diseconomies of scale in the provision of services) and that Norfolk is at a somewhat higher level than the Northern Territory, doubtless reflecting greater diseconomies of scale. The Norfolk figure would reduce slightly if it excluded those working at the Liquor Bond Store, a function not elsewhere a public sector activity.

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49. The administration is headed by the CAO who is employed on a contract negotiated with the Assembly through the Chief Minister as the Executive Member responsible for public administration. CAOs had previously been appointed from outside the Island community and had operated on relatively short term contracts, but the advertisement in June 1997 to fill the position required applicants to be either residents of the Island or hold General Entry Permits to the Island. The position of CAO is now filled by a Norfolk Island resident.

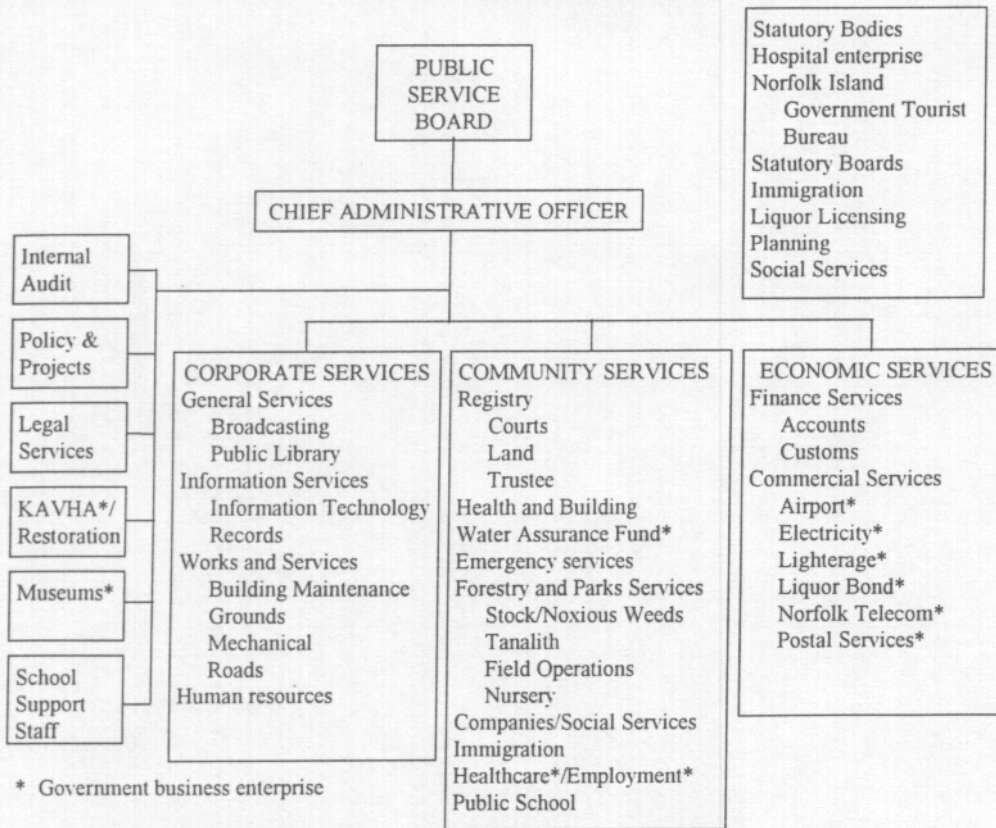
50. A Public Service Board acts as a 'board of directors' for the public service. It consists of the CAO, a member elected by staff and three members appointed by the Assembly. It is the Public Service Board rather than the CAO that has the statutory power to create and abolish offices within the service, appoint persons to those offices, engage temporary employees and determine salaries. The CAO can allocate duties to officers and employees and engage temporary staff for periods of less than six months, but is generally limited by the legislation and the Public Service Board.

51. An outline of the current structure within the Island's public administration is at Figure 9-3.

52. The interaction between the Executive Members and the Public Service is of particular interest. As all public servants are responsible to the CAO, there is effectively only one department to serve the wishes of the four Ministers. The Ministers are not always in agreement on priorities (or even the purpose of proposed legislation or research being undertaken). There are groups within the Public Service that specialise in particular areas of service provision (these are in fact called departments) but the responsible Minister has little authority over what they do. Staff and functional responsibilities are not structured to match Ministerial responsibilities (some managers are responsible for functions covered by more than one Minister) and a Minister's requirements might be met by up to nine managers of either public service departments, GBEs or statutory authorities. As a result, problems can arise in employees not understanding the lines of responsibility or being able to follow clear priorities. Ministers seem to find their lack of direct access to staff frustrating.

53. The more important difficulties faced in managing the Public Service are the antiquated nature of the Public Service Act, the statutory limits set on its growth, the broad range of expertise required, and the difficulties and high costs of recruiting and providing training to maintain the required levels of expertise. These are discussed below.

Figure 9-3 NORFOLK ISLAND PUBLIC ADMINISTRATION — STRUCTURE



54. *Public Service Act.* A Bill has been drafted to replace the existing *Public Service Act, 1979* but it is still being discussed as an exposure draft at informal meetings of the Members and by the Public Service who, through their Association, have expressed some concerns. It has not yet been presented to the Assembly for consideration. Until the present Act is amended or replaced, the Norfolk Island Public Service does not have the flexibility to:

- respond adequately to the needs of a government with the wide range of responsibilities that has been given to the Norfolk Island Assembly;
- introduce new management techniques; or
- make managers sufficiently accountable.

For example, it is not possible at present for the CAO to transfer staff within the public service without the approval of the Public Service Board and it appears extremely difficult and time consuming to terminate an appointment. In addition, managers of the commercial

enterprises do not seem to have direct responsibility for managing the inputs and outcomes of the service, or ensuring that they break even or make a profit, as the Government wishes.

55. *Limits to growth.* The *Public Service Act 1979* allows for a reduction in the size of the public service if the Assembly decides on that action. It also limits the growth of the service to a rate not greater than the rate of growth of public revenue (revenue from levies and taxes has declined in six of the past eighteen years<sup>2</sup>). The statutory relationship between staff levels and revenue imposes a constraint on what the public service can be asked to do, by limiting options to invest staff time in ventures that might return revenues further downstream, and by restricting opportunities for training.

56. *Level of expertise.* For a community as small as Norfolk Island, the breadth of knowledge and skills required to provide the range of services for which their Government is responsible is very great. The community can draw on a permanent local population of under 1100<sup>3</sup> to fill around 215 public sector positions (including the health and tourism functions) which must cover a very wide range of knowledge and skills. As a result, many in the Public Service must be multiskilled at high levels in a number of functions. These skills are recruited locally or off-Island.

57. However, we understand that the proportion of officers in the Norfolk Island Public Service with appropriate tertiary qualifications is very low. In particular, it was said that there is little capacity in the current public service workforce to provide financial, economic or statistical advice to the Ministers. Expert senior executive staff brought in, in part to remedy this problem, are subject to the Temporary Entry Permit provisions of the Island's immigration policy and are limited to a two or three year stay.

58. A number of submissions expressed strong concerns that the level of expertise in the Public Service is not adequate to perform the range of functions expected of it. The present Public Service Act makes it difficult to remove (or even transfer) permanently appointed but inefficient officers. There are no redundancy provisions in the Public Service Act and it is extremely difficult to reduce employment levels if this is required. Maintenance of efficiency in the service is difficult because there are no effective performance management requirements. These limitations may be overcome once a new Public Service Act is passed but, in the meantime, there are limits on the capacity of managers to improve the efficiency of the Public Service and on that of the Government to meet its present obligations, let alone any future ones.

59. There are many examples where specialist skills have been purchased off-Island through contract arrangements, consultancies and Memorandums of Understanding (MOUs). Contracts and consultancies are a common means by which governments arrange the provision of services and are used more as the size of the administration reduces. MOUs and other intergovernment Agreements also become more likely as the size of the government unit reduces — for example, many services on the Indian Ocean Territories are provided through Service Delivery Agreements with Western Australian Government Departments. The use of Access Economics to provide economic advice is a recent example of the Norfolk Island Government using a consultancy to

<sup>2</sup> See Norfolk Island Government Submission, April 1997, p60.

<sup>3</sup> From Table 4-3.

purchase skills not available to it on the Island. The Commonwealth also assists with the provision of specialist advice. Recently, it has arranged for:

- the Australian Bureau of Statistics to undertake a survey of Household Income and Expenditure and to develop a retail price index (\$125 000 was contributed by the Commonwealth, \$25 000 by the Norfolk Island Government);
- advice to be provided to KAVHA by a heritage architect and an archaeologist and by conservation, water quality management and financial planners; and
- assistance in the development and installation of a computerised land titles system (\$65 900) and the preparation of a statutory plan for Norfolk Island (\$50 000).

The arrangements for the provision of schools education and police services are the best examples of the use of MOUs on Norfolk and both appear to work well.

60. However, it seems that no systematic consideration has been given to the best ways of obtaining the expertise required by the Norfolk Island Assembly. Possibilities worth considering include further contracting out of entire services, and arranging service provision with either a State or Commonwealth agency.

61. **Recruitment.** It is essential that the necessary minimum levels of administrative and managerial expertise be maintained on the Island. While the Norfolk Island Government has a policy of attempting to recruit locally whenever possible, this is not always easy when specific expertise is required. Many previous Norfolk Island residents or their spouses return to the Island with relevant qualifications and experience, and these resources are drawn upon where possible.

62. We understand that a merit selection process is used to recruit staff locally and off-Island. However, some concerns were expressed in submissions that the processes used to recruit local staff do not always seem to produce fair merit based outcomes. It is essential to the efficiency of the Public Service and to the confidence that the community has in it that selection processes be based on merit and be seen to be based on merit. This is a function that could benefit from the availability of administrative review processes, although there was no indication to us that the Assembly intends to legislate to this effect.

63. When it is necessary to recruit specially qualified staff from the mainland, the costs can be up to \$20 000 for each appointee. If fields are big (as is usually the case for teachers), a recruitment team is flown to the mainland. Successful candidates (and their partners) are given an opportunity to visit the Island before committing themselves to the position, and relocation and repatriation expenses, frequently for families, must also be met.

64. It has been argued that limiting the length of contracts for officers recruited off-Island to two or three years is inefficient on two fronts. The rapid turnover means higher average annual recruitment costs and the frequent loss of the benefits derived from on the job training provided to these officers. It was also suggested to us that the lack of a



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long term commitment to the Island by these officers, who have no on-going responsibility for the results of their decisions, can lead to less than the most efficient and effective outcomes.

65. **Training.** Maintaining and developing skills through training is both difficult and expensive, even where appropriately skilled staff are initially recruited. The training budget in 1995-96 for the whole of the Public Service was \$44 700 in a salary budget of almost \$6 million. This is about 0.8 per cent, much lower than the three per cent seen as the Commonwealth public sector benchmark on the mainland. The Commonwealth minimum target for expenditure on training for private firms is one per cent. Training for the teaching staff is covered in the Norfolk Island Government's MOU with the New South Wales Government and might therefore be seen as meeting the standard expectations. There is no indication, however, that staff training in the Hospital Enterprise or the Tourist Bureau is any higher in relative terms than in the Public Service.

66. The experience of other small organisations (including this Commission) is that the multi-skilling required to ensure the effectiveness of staff is more demanding of training than in larger offices. Given the need for training in a large range of functions, the high costs involved (either trainers travel to the Island or trainees travel off the Island) and the diseconomies of scale faced in providing it, it is quite likely that the Norfolk Island Government needs to spend more than three per cent of salaries to provide levels of training equivalent to the Commonwealth benchmark. Executive Members of the Norfolk Island Government agreed with us that training has been underfunded in the past.

67. We were told that a structured approach was not taken to skill maintenance or development for public service staff. Such an approach is standard practice on the mainland and probably more important for the Norfolk Island Public Service if it is to maintain and improve its administrative capacity.

### *Government Business Enterprises*

68. There are 11 government owned activities that the Norfolk Island Government classifies as business enterprises (GBEs) and that operate as monopolies. The financial accounts of the enterprises are held within the Administrative Services Fund of the Public Account (described below). Six of them, the Airport, Electricity Service, Lighterage Service, the Liquor Supply Service, Norfolk Telecom and the Postal Services, form part of the Economic Services Division of the Public Service. The Norfolk Island Government considers that the first three of these should not impact on the budget and that the last three should make a contribution to the budget through dividend payments. The Airport is the only enterprise where there has been a long term assessment of capital needs, based on safety and operational requirements, and where there is a revenue policy in place (through landing fees) to fund all future maintenance and capital requirements.

69. Two other GBEs, the Water Assurance Fund and the Workers Compensation Scheme, are run by the Public Service as part of the Community Services Division and are expected to be revenue neutral. Another, the Norfolk Island Healthcare Fund, is part of the Community Services Division but there is a Government expectation that it will continue to need a subsidy. The last two enterprises, the KAVHA Restoration Authority and the

Bicentennial Integrated Museums, are subsidised from the public account and report to the Government through the CAO, but operate independently in that they retain their own revenue.

70. The positions of GBEs within the administrative structure are not related to their different impacts on the budget and we find it hard to see why some services are classified as GBEs while others are not. The tanalith plant and some aspects of the forestry operations, for example, seem much more like commercial enterprises than the work of KAVHA or the museums.

71. Most managers of the GBEs are technically skilled but they face serious impediments to their functioning as managers of business enterprises. The fact that financial information on GBE operations is held by the Finance Manager in the central administration is a constraint on their management role, as is the central control on such things as staffing, the level of stock that can be carried and when inefficient (and inaccurate) computing systems can be replaced. Charges for GBE services are not set on the basis of a pre-determined level of cost recovery, nor are they always set as part of the overall budget framework of the Norfolk Island Government.

72. There is confusion as to whether each enterprise is a separate entity (that is, separate from all other Government activities) and must fund all its own infrastructure needs from within its own budget. The community appears to think of the GBEs as separate enterprises. However, the enterprises are structurally part of the Public Service, reporting to the CAO, and the Government sees them as having a very close relationship with general government activities. To some degree, we support this view, since looking at them as separate entities could create problems with the management of capital needs in any long term strategic way when each of the individual enterprises is likely to have lumpy capital needs.

73. There may be management advantages in some grouping of the GBEs. Experience elsewhere, particularly in smaller jurisdictions, indicates that a grouping of activities with some common attributes would be worthwhile. A grouping of activities with a commercial emphasis, for example, would justify the appointment of a more senior business manager. A grouping of activities with a technical or engineering focus would justify the appointment of a more senior technical person. It may even be possible to find one person with all the required skills.

74. Naturally, any move to group GBEs into larger business units would need to be tailored to Norfolk's circumstances but we believe some grouping would be beneficial. It should assist in the development of a long term plan that satisfied the competing capital expenditure requirements of the businesses and be able to supply a regular and predictable flow of funds for general government purposes.

75. We note that, in 1990, the Norfolk Island Government's Revenue Review Working Group suggested that the organisational structure of the Public Service, which includes a separate 'Economic Services' group, distorted capital expenditure decisions. It commented that:

the core trading enterprises (Telecom, electricity) generate their own revenues for the purposes of generating reserves for future capital expenditure, whereas the Revenue Fund utilities do not. The result, in crude terms, is that new electricity generators and telephone capital equipment are fairly readily available, whereas Revenue Fund capital expenditures (for example, on roads) are not.

76. It concluded that there was a definite case for political prioritisation of all capital expenditure and, if necessary, cross-subsidisation to ensure that the politically determined priorities were achieved.

77. In general, we find it hard to understand the reasons for the operational arrangements of the various business enterprises and their relationship with general government. It seems to us that these arrangements could well be detrimental to the efficient management of the enterprises and of assets, and are likely to lead to poor investment decisions.

78. We think there would be benefits in an external review of the structure of government and public administration on Norfolk Island. Such a review should consider the machinery of government in general, and in particular the circumstances in which GBEs might best be used. In this regard, GBEs are generally defined as publicly owned and largely self managed commercial entities that have the primary role of selling goods and services to private consumers. Unlike the general government sector, GBEs do not usually rely on consolidated revenue for most of their funding — they are responsible for covering all or most of their own costs. Nevertheless, they may receive subsidies from government to cover the cost of imposed community service obligations.

#### *Statutory Bodies, Boards and other Community Involvement*

79. *Statutory bodies.* The hospital and the tourist bureau are run by statutory bodies. These have their own staff and their own budgets, while statutory boards use Public Service staff and are funded through the Revenue Fund. We have difficulty understanding the extent to which the members of the statutory bodies manage the health and tourist promotion services because of the complex way they interact with the Ministers and the functional managers. At the hospital, for example:

- the manager runs the hospital under direction from the Hospital Board;
- the Minister is not a member of the Board and can only attend its meetings by invitation, but the present Minister meets with the hospital manager each week and with the Chairman of the Board every two weeks;
- the Board prepares the draft Budget for the year;
- the budget is reviewed (line by line) by the finance manager in the Public Service, the relevant Minister and the Minister for Finance

before going to the Assembly for approval, and the Board has little flexibility in expenditure patterns once the budget has been set;

- the Minister has input into hospital (medical) decisions through the Health Care Referral Guidelines that specify when a patient can be moved off the Island for treatment; and
- the Minister can give the Board directions in writing after tabling them in the Assembly.

80. The budgeting processes and degree of flexibility in financial management are often good guides to the independence of a statutory body. For the Norfolk hospital, the processes do not indicate a great degree of independence. In fact, there is very little difference between the way the Hospital Enterprise is run and deficit funded, and the way the museums are run as a GBE within a department of the Administration and deficit funded.

81. *Statutory boards.* These operate in the areas of immigration, liquor licensing, planning and social services. They have power to interpret the legislation and policies of the Government and to advise the Executive Members on aspects of the legislation for which they are responsible. How the boards are provided with administrative support is somewhat unclear, but at least two of them seem to have links with Government departments.

82. *Other community input.* In addition to the permanent statutory authorities, the Norfolk Island Government involves the community and gets access to its skills by forming special advisory committees such as that established to assess the arguments for and against the introduction of a Goods and Services Tax. Generally, this community input is unpaid, but the Government does meet some support costs.

## FINANCIAL ADMINISTRATION

### *Public Accounting Policies and Practices*

83. The accounting functions of the Administration are governed by the *Public Monies Act 1979*. The Public Account is divided into four funds: the Revenue Fund; the Administrative Services Fund; the Trust Fund; and the Loan Fund.

84. GBEs and other government activities are accounted for differently. This results in accounting arrangements that do not match the administrative arrangements within the Public Service. Two of the three departments have some of their accounting records in the Revenue Fund, on a cash basis, and some in the Administrative Services Fund on an accrual basis.

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85. There are no outstanding loans. The most recent example of an external borrowing was a Treasury loan of \$300 000 in the 1970s (before self government) to finance the purchase of an electricity generator.

86. The accounts are prepared on the basis of Australian Accounting Standards and provide an extensive range of excellent management information. The explanatory notes are comprehensive and, over all, the accounts are informative and easy to use. The external auditors have certified the accounts annually, but have recommended that the Revenue Fund adopt a modified accrual accounting standard as soon as possible. The Norfolk Island Government is planning to do so by the end of the 1998-99 financial year.

### *Budgetary Policies*

87. Norfolk Island Governments since 1979 have followed conservative and incremental budgetary policies. Budgets have been revenue constrained (as a result of deliberate limited effort rather than the size of the revenue bases) and compiled with the primary aim of arriving at an end of year result that is in balance or has a modest surplus. Reserves of the GBEs have been used to fund general government activities when considered necessary, and borrowing for any purpose has been resisted. The balanced budget objective has sometimes been thought to be more important than whether the appropriate levels of services were being provided to the community. In the past, the budget has not been seen as an economic planning and management tool and for this reason, the 1997-98 appropriations and revenue raising levels have been set for only three months while some longer term planning is done.

88. The budget for the revenue fund is prepared on a traditional line item basis. In February or March each year, public sector managers prepare draft budgets showing a list of programs with desired expenditures ('wish lists'). These are collated (together with requests for subsidies such as that from the Hospital Board), examined and 'trimmed' by the Finance Manager, in consultation with the Chief Administrative Officer, before presentation to the Minister for Finance.

89. An overall review of taxes, fees and charges is not part of the annual budget process and some Assembly Members said that such a review is not needed annually. Revenue sources are reviewed on an *ad hoc* basis, but this means that the budget is rarely examined as a whole. The last review of taxes and charges was 'about four years ago'.

90. Over time, taxation decisions have minimised taxes paid by residents and raised a higher than proportionate share of taxes from tourists. This was said not to have been a deliberate policy and seems to have come about without any close analysis of what it might be doing to the single most important industry in the Territory.

91. A bill for an Appropriation Act is presented to the Assembly by the Finance Minister in May or June. Variations to the budget, after it passes into legislation, can be achieved either by supplementary appropriation or funds transfer appropriation tabled in the Assembly. Within their budgets, public service managers have little flexibility and have to get the approval of the Executive Member, through the CAO, for relatively small internal

re-allocations of resources. Such processes do not encourage managers to take responsibility for their services and can lead to inefficiencies.

92. The responsible Executive Member can approve a GBE's budget without consulting his Ministerial colleagues, though the budgets are normally approved by the Assembly at an informal meeting of Members. No Appropriation Act is required, presumably because most GBEs are net contributors to the budget. This process means that the Assembly has no formal say in the level of efficiency being aimed at or achieved by the GBEs, and implies that it has no interest in the operations other than their contribution to general revenue.

93. There is no forward estimates system in place and provision for even large capital expenditures is at least partly driven by crisis. The requirement of balanced budgets can cause the postponement of necessary capital expenditure until sufficient funds have been accumulated from recurrent revenue sources and dividends paid by the GBEs. The submission by the Norfolk Island Government in May noted that:

While this is sometimes portrayed as sound economic management such an approach is obviously not without risks. Deferred capital projects and capital replacement can become urgent at inopportune times and economic management can become management by crisis.

#### *Public Sector Reform*

94. In 1993, a process of public sector reform was articulated, with the major aims being:

- adoption of a strategic focus through corporate planning;
- introduction of program budgeting;
- introduction of performance measurement;
- development of a longer term fiscal strategy; and
- introduction of accrual accounting and improved management reporting.

Limited progress has been achieved to date.

#### **ACCOUNTABILITY ARRANGEMENTS**

95. Norfolk Island's financial accountability arrangements appear to be rudimentary. The *Norfolk Island Act 1979* requires an annual audit of the Government's accounts. Internal and external audit procedures are in place, but fraud control measures appear to be minimal. There is some thought that debt collection procedures are adequate,

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or even not needed, although the levels of outstanding accounts mentioned by some managers indicate to us that some procedures are necessary and that existing arrangements need to be reviewed. There are insufficient compliance audits associated with tax collection and several taxes are paid on an 'honesty' system — the implications of this for revenue collections were discussed in Chapter 7.

96. In terms of management accountability, the Public Service had been producing an Annual Report for the Assembly, but there is no statutory requirement for it to do so and no Reports have been produced since 1993-94. We were told in July that the Annual Reports for both 1994-95 and 1995-96 were in the final stages of production and should be available before the end of August 1997. While the statutory bodies that run the hospital and tourist bureau have to provide monthly financial statements to the Assembly, and have their accounts audited annually, they are not required to produce an annual report on their activities. The Tourist Bureau is required to produce a monthly indicator of the level of tourist activities but the hospital is not required to produce any non-financial information. There is no equivalent of Parliamentary Committees with investigatory and review powers, although there may be no advantage in such committees in so small an Assembly. So far as we are aware, there are no procedures for efficiency audits.

97. There seems to be some concern in the community that it is not adequately informed about Government performance and that there is a level of secrecy surrounding many Government decisions. The annual budget documents, for example, are not generally made available for public scrutiny, although a summary of them is presented in the newspaper, *The Norfolk Islander*. There appear to be a number of Government grants and programs of which the community is not fully aware — for example, the Legal Aid scheme and the availability of funding for arts and sports grants — but, as in all communities, this could be due partly to recipients of information not reading it.

98. While the local newspaper and radio station provide much information on important community and political issues, they play hardly any watch dog role in relation to the performance of the Government and provide little avenue for public discussion. This is in contrast to most small communities on the mainland where the media, particularly the local press, play an important role in ensuring the accountability of councils and other representatives to their constituents.

99. A matter of some concern in accountability is the allocation of portfolios of responsibility to individual Executive Council members, nominally as Ministers, but without any power to give policy direction to the relevant Public Service staff, who are responsible to the CAO.

100. The Statutory Bodies are of concern for similar reasons. It is unclear what the oversight, direction and reporting arrangements are for these authorities in relation to the Public Service, the relevant Ministers and the Assembly.

101. The Norfolk Island Assembly is implementing a system of administrative review of some decisions under the Administrative Review Tribunal Act 1996. The functions of the Tribunal may eventually be wide ranging, but initially it will review only those decisions relating to the land administration package. Its powers in these cases are

intended to ensure fair dealing in property. Submissions indicated to us that many Islanders have experienced difficulties over land matters in the past.

102. The Tribunal will not have the powers or procedures of a Court. It will be an appeal body, able to review, alter, overturn or require reconsideration of an executive or administrative decision affecting any person on Norfolk Island. Decisions will 'be judged on their merits'.

103. The Tribunal will use Canberra and local magistrates to hear cases. Canberra magistrates will be paid \$700 a day (plus travel expenses) and local magistrates \$100 a day. Training for magistrates and support staff will be required.

104. The Tribunal is regarded on the Island as a model approach to making the Administration more accountable to the public. Doubts were expressed, however, about how widely the approach could be applied without considerable improvements to the administrative ability of the Public Service and the framework within which it works. Nevertheless, we think it would be beneficial if the responsibilities of the Tribunal were extended to cover a wider range of decisions, including those relating to immigration, as soon as practicable.

105. Although there is no Norfolk Island Ombudsman, Norfolk Island residents have access to the Commonwealth Ombudsman in relation to Commonwealth activities. They can also raise relevant issues with the Human Rights and Equal Opportunity Commission for inquiry. There is at present an issue concerning Norfolk Island's immigration legislation before that Commission. A report is expected about late October 1997.

## CONCLUSIONS

106. Our conclusion is that administrative capacity is the major factor limiting the Norfolk Island Government's ability to deliver services. The present arrangements are too complex for a community the size of Norfolk Island, and the lines of responsibility are unclear. Some simplification and clarification is essential. The following observations are made.

### 107. *Commonwealth Government issues.*

- (i) The Territories Office and other Commonwealth agencies need to make greater efforts to ensure that the Island is informed of relevant developments in the provision of services on the mainland, and of proposals for legislation which may be relevant.
- (ii) Past inadequacies in communication between the Commonwealth and Norfolk Island Governments have resulted in mistrust on both sides and a better climate needs to be established, including through improved communication.



108. *Representation and legislature.*

- (i) The present arrangements for representation at the Commonwealth level and the legislative assent arrangements, while not perfect, seem reasonably well tailored to the circumstances of the Norfolk Island community.
- (ii) The eligibility requirements for Members of the Assembly carry the potential for conflicts of interest and, at the very least, Assembly guidelines should be developed on how this potential might be minimised.
- (iii) The large changes in Assembly and Executive membership at each election create problems. These might be reduced if the Assembly were to adopt a longer term strategic focus, with planning going beyond the life of one Assembly.
- (iv) With an Assembly and therefore a Ministry made up of independent Members, no legislation is formally proposed by a 'Government' or agreed by a 'Cabinet' prior to its presentation to the Assembly. Any changes that increased collegiality among the Ministry would smooth the passage of legislation and reduce the potential for conflict inherent in a government where Ministers can work alone.
- (v) The wide range of powers given to the Assembly seems very difficult for it to deal with, given present levels of remuneration and expected work loads.
- (vi) A review of Norfolk Island's body of law would seem beneficial, although it is unlikely that the Administration has either the expertise or the financial resources to undertake it. This could be done with Commonwealth assistance, using a joint model of delivery similar to that operating for KAVHA.

109. *Government structures.*

- (i) The machinery of government needs to be reviewed (preferably by an appropriate external body) and clearer lines of responsibility drawn between the Ministers, the Chief Administrative Officer and the Public Service. The present confusion in lines of authority and responsibility is likely to be reducing efficiency and accountability.
- (ii) The Public Service Act is outdated, and a new Act should be pursued as a matter of urgency.
- (iii) Alternative ways of obtaining the expertise required by the Norfolk Island Administration should be considered. First, a detailed analysis of the skills required to support all functions should be undertaken,

and then the best way of developing or obtaining the required expertise should be considered.

- (iv) Selection of staff, though said to be on the basis of merit, needs to be seen to be so.
- (v) The structure of the public sector needs further consideration. In making changes to the administrative framework in the future, some questions that might be asked are as follows.
  - Are all the statutory authorities and boards needed?
  - What impact is the current use of statutory authorities having on the accountability of the Assembly and the Ministers to the community?
  - For what functions is it appropriate to have statutory authorities?
  - Is it appropriate to have GBEs operating within Government departments and under the direct control of the CAO?
  - Would there be benefits in corporatisation (or even privatisation) of some functions? Should more services be provided through MOUs or Service Delivery Agreements?
  - When MOUs are used, what is the appropriate connection with Government to ensure accountability to the community?
- (vi) Managers of government enterprises need to be given clear authority to manage within the framework of Government policy.
- (vii) It could be beneficial if there were a re-definition of what is seen as an enterprise. There seems to be scope for some amalgamation of enterprises, with possible management benefits, economies of scale and improved long term financial planning.

110. *Financial administration.*

- (i) Differences in the structure of the accounts and the structure of the Public Service are likely to be creating management inefficiencies.
- (ii) A system of forward estimates would facilitate long term planning of recurrent and capital needs and cash flows.
- (iii) The high quality information available in the accounts provides a good basis for informed decision making.
- (iv) There would be benefit in an annual budget process involving an 'across the board' review of the needs of the community — the type and levels of services required, the sources of revenue to be used to

fund them, the rates of taxes and charges and the policies to be adopted in the operation of GBEs.

- (v) It would be useful for managers to be made aware at the start of the financial year of the level of their function's expected contribution to the Revenue Fund so that charges could be set accordingly.
- (vi) The process of public sector reform articulated in 1993 should be pursued.

111. *Accountability.*

- (i) Arrangements for efficiency audits and fraud control do not seem to be adequate.
- (ii) The most recent Annual Report of the Norfolk Island Administration is for 1993-94. There should be regular and timely reports which cover all service delivery agencies.
- (iii) Community awareness of some government programs is inadequate, and the media is not used effectively to try to overcome this.
- (iv) The powers of the Administrative Review Tribunal to be established shortly should be extended as soon as practicable.

112. In considering any response to these general conclusions, it should be remembered that, for any small and isolated community such as Norfolk Island, there are two points that bear on what is practicable. They are that:

- the administrative capacity of the community is limited by the size of its workforce and by the level and range of expertise within it; and
- the theoretical approach relevant to large organisations (either businesses or bureaucracies) may not be effective for small groups with wide ranging responsibilities.

113. While the conclusions we have reached in this chapter might seem to be prescriptive, we believe it is necessary for the Norfolk Island Government to make, or at least have primary responsibility for, the final decisions relating to the public administration on the Island. It may not be necessary for all the formal mechanisms on the mainland to be established on Norfolk, but we believe it would be useful for their applicability to be assessed. It may well be that some truly Norfolk solutions can be found.