

### *Accountability through audit*

The Committee recommends, as a bare minimum, that standard contract clauses, tailored as necessary to reflect the particular circumstances of each contract, be used as the means of providing audit access to relevant third party information and records.

### *Accountability through the Freedom of Information Act*

The Committee noted that the administrative law provisions most at risk in the case of contracted government services are access to the Ombudsman and to freedom of information.

Citing the Administrative Review Council Discussion Paper on *The Contracting Out of Government Services: Access to Information*, the Report endorses the view expressed by the Council in that paper on the need to balance the desirability of maintaining accountability through information access rights in a contracting situation and the interests of the contractors, who might fear disclosure of commercially sensitive information.

The Report notes the options identified by the Council to ensure that access to information is not lost or diminished by the contracting out of services, as set out in the Council Discussion Paper. The report supports the Council's preferred option of an amendment to the FOI Act deeming documents in the possession of the contractor that relate directly to the performance of the contractor's contractual obligations to be in the possession of the government agency, and therefore accessible under the FOI Act with the current exemptions. Noting that while this is not a perfect solution, as the Council pointed out, its

success will depend on the contractor's adherence to its record-keeping obligations which can be monitored by periodic auditing.

### *Accountability through the Ombudsman*

While the Committee felt that complaints against service providers should be dealt with by those service providers in the first instance, where service recipients fail to receive satisfaction from the service provider, they should have the right to complain to the Ombudsman. As an interim measure, the Committee recommended an extension of the Ombudsman's jurisdiction on a case-by-case basis for sensitive areas of service delivery. It will revisit at a later stage the question whether a legislative extension of the Ombudsman's jurisdiction to cover all contracted out government services is warranted.

### **Government Response to the Report of the Joint Select Committee on Certain Family Law Issues**

The Joint Select Committee's report on its inquiry into the operation and effectiveness of the Child Support Scheme was tabled in December 1994. The former Government tabled an interim response in March 1995 which addressed 53 of the 163 recommendations. In November 1997, the Government tabled its response to the remaining Joint Committee's recommendations.

The Government's responses to the major recommendations concerning the review of Child Support Agency decisions are:

### *Recommendation No. 76*

The Joint Committee recommended that the child support legislation be amended to establish an internal objection procedure for all administrative decisions and applications for a departure from formula assessment.

- the Government accepts the recommendation that the child support legislation be amended to establish formal internal review of all administrative decisions which may affect the interests of persons involved in the Child Support Scheme. The review will be conducted by staff of the Child Support Agency who were not involved in the making of the original decision;
- Where a parent is aggrieved by the decision following internal review, recourse would be through the Family Court, which is consistent with the current approach dealing with matters of Family Law.

### *Recommendation No. 77*

The Joint Committee recommended that the child support legislation be amended to establish an external review office, called the Child Support Appeals Office, to determine appeals by custodial parents or non-custodial parents.

- the Government does not consider that it is necessary to establish an external review office. However, the recommendations arising from the Government's "Reform of Merits Tribunal" review, which might improve the proposed Child Support Agency review procedures, will be considered.

### **Inquiry into extending privacy legislation to the private sector**

On 2 April 1998, the Privacy Amendment Bill 1998 was introduced into Parliament. On 14 May 1998, the Senate referred the Privacy Amendment Bill 1998 to the Legal and Constitutional References Committee for inquiry and report by 12 August 1998.

The Bill extends the *Privacy Act 1988* to personal information held by contractors in relation to services provided by the Commonwealth and services provided to people on behalf of the Commonwealth under contract. The Committee's terms of reference do not relate just to the Bill, but are expressed to include the extension of privacy legislation to the private sector generally.

The Committee will examine the need to extend the legislation, with particular reference to:

- relevant international standards and obligations;
- international comparisons;
- current legislative and other frameworks for privacy regulation in the Commonwealth, States and Territories;
- the role, responsibilities and practices of Commonwealth, State and Territory Governments;
- the needs and responsibilities of the private sector; and
- the right of consumers.

The Committee will also examine the effectiveness of any privacy scheme that does not have legislatively-backed complaints, investigation and enforcement mechanisms, the appropriateness of using National Principles for the Fair Handling of Personal Information (discussed below) as a basis for a co-regulatory regime for