

ACT AUDITOR-GENERAL'S REPORT  
**CALVARY PUBLIC HOSPITAL FINANCIAL  
AND PERFORMANCE REPORTING  
AND MANAGEMENT**  
REPORT NO. 1 / 2016

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PA 14/13

The Speaker  
ACT Legislative Assembly  
Civic Square, London Circuit  
CANBERRA ACT 2601

Dear Madam Speaker

I am pleased to forward to you a Performance Audit Report titled 'Calvary Public Hospital Financial and Performance Reporting and Management' for tabling in the Legislative Assembly pursuant to Subsection 17(5) of the *Auditor-General Act 1996*.

Yours sincerely



Dr Maxine Cooper  
Auditor-General  
8 April 2016



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# SUMMARY

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This report presents the findings of a performance audit that considered the financial and performance management and reporting arrangements for the Calvary Public Hospital at Bruce, with a specific focus on the 2013-14 financial year.

The Calvary Public Hospital is operated by Calvary Health Care ACT Ltd, a subsidiary entity of the Little Company of Mary Health Care Ltd. Arrangements for the delivery of the public hospital services are established under the Calvary Network Agreement between Calvary Health Care ACT Ltd (as a subsidiary entity of the Little Company of Mary Health Care Ltd) and the Territory (through the ACT Health Directorate).

## Overall conclusion

In late 2012-13 and throughout 2013-14 inappropriate financial practices were undertaken with respect to the recording and reporting of the finances of the public hospital services provided by Calvary Health Care ACT Ltd. During this period inaccurate information was entered into the Little Company of Mary Health Care Ltd's financial system, Finance One at the Calvary Public Hospital at Bruce. This, and the manipulation of financial and other reports, resulted in the ACT Health Directorate and the Little Company of Mary Health Care Ltd receiving misleading information that presented a better financial result than was occurring.

At the end of the 2013-14 financial year, in preparing the financial statements for that year, receivables (monies expected to be collected) from the ACT Government of \$8.892 million were falsely reported. This enabled Calvary Health Care ACT Ltd to report a surplus for 2013-14. The subsequent removal of falsely reported receivables contributed to Calvary Health Care ACT Ltd's Public Hospital 2013-14 financial position being a \$9.451 million deficit rather than a surplus of \$1.925 million. Although the Little Company of Mary Health Care Ltd absorbed the deficit with no financial loss to the ACT Government and no misappropriation of funding was identified, it is a concern that neither the Little Company of Mary Health Care Ltd nor the ACT Government had an accurate understanding of the 2013-14 year financial position of Calvary Health Care ACT Ltd's Public Hospital until October 2014.

A small number of Calvary Health Care ACT Ltd executives and staff were involved in undertaking the inappropriate financial practices. Other staff and executives also at Calvary Health Care ACT Ltd advised the Audit Office that they had concerns at the time but did not report them. The *Public Sector Management Act 1994* obliges Calvary Public Hospital staff to report inappropriate behaviour. Further examination of how Calvary Public Hospital staff are employed is warranted, including consideration of their responsibilities under the *Public Sector Management Act 1994* and associated enterprise agreements, and how Calvary Health Care ACT Ltd and the Little Company of Mary Health Care Ltd provide support to staff to meet their responsibilities.

The inappropriate financial practices occurred in the context of the Calvary Network Agreement not being implemented effectively. Requirements in the Calvary Network Agreement relating to

the provision of funding, including the implementation of a new activity-based funding model and a clinical costing system, both the responsibility of the ACT Health Directorate to develop, have not been met. Arrangements for the provision and oversight of funding for Calvary Public Hospital were inadequately implemented, coordinated and communicated thereby contributing to a workplace in which inappropriate financial practices were less likely to be challenged.

While respecting that improvements have been made in response to the events of 2013-14, given the findings of this audit and the significance of the public hospital services provided by Calvary Health Care ACT Ltd, it would be prudent to examine if the Calvary Network Agreement is the most appropriate mechanism for facilitating the delivery of services at Calvary Public Hospital. If it is to remain, priority needs to be given to amending the agreement followed by a sustained commitment to its implementation. Importantly, the ACT Health Directorate will need to improve its leadership in managing the agreement.

## Chapter conclusions

### GOVERNANCE, ADMINISTRATIVE AND CONTRACTUAL ARRANGEMENTS

Governance and administrative arrangements for the Calvary Network Agreement for the delivery of public hospital services provided by Calvary Health Care ACT Ltd in 2013-14 were inadequately implemented and in some instances the arrangements themselves were inadequate. Importantly, some key clauses in the Calvary Network Agreement were not adhered to, were ineffectively implemented or need to be revised. The ACT Health Directorate has adopted an informal approach in relation to Calvary Health Care ACT Ltd and its management of the Calvary Network Agreement. However, it is incumbent on the ACT Health Directorate, as the party ultimately responsible for the management of the delivery of public hospital services, to take a strong leadership role. This was lacking in 2013-14.

Communication between the ACT Health Directorate and Calvary Health Care ACT Ltd (and Little Company of Mary Health Care Ltd) did not occur in a timely manner. This resulted in uncertainty regarding decisions made on service activity levels and funding. Additionally, the effectiveness of governance committees with responsibility for overseeing and monitoring the delivery of Calvary Public Hospital services was compromised due to inadequate documentation of committee meetings.

The development and agreement of annual service activity levels and funding, as required in Annual Performance Plans supporting the Calvary Network Agreement, is problematic. Plans were developed and finalised late, some many months into the financial year. It is important that plans are finalised in a timely manner so that there is certainty for Calvary Health Care ACT Ltd with respect to the services it needs to deliver and for the ACT Government regarding funding commitments.

The Calvary Network Agreement required the parties to transition to an activity-based funding model for the delivery of public hospital services by Calvary Health Care ACT Ltd by 1 February 2015. A pre-requisite for the transition was for the ACT Health Directorate to provide a clinical costing model to Calvary Health Care ACT Ltd. This did not occur. Until an activity-based funding model is implemented Calvary Health Care ACT Ltd will receive funding for an amount no less than that received for the preceding year, regardless of activity levels. Having an activity-based funding model may offer advantages to the ACT Government in that it may provide certainty on the calculation of funding. However, the ACT Health Directorate did not give priority to its development.

### INAPPROPRIATE FINANCIAL PRACTICES

The Little Company of Mary Health Care Ltd's operating revenue in 2013-14 was \$1.066 billion. Calvary Health Care ACT Ltd's operating revenue for its public hospital services at Bruce was \$189.721 million in 2013-14 (17.7 per cent of the Little Company of Mary Health Care Ltd's total operating revenue).

Inaccurate information was entered in the Little Company of Mary Health Care Ltd's financial system, Finance One at the Calvary Public Hospital at Bruce. This facilitated the reporting of better financial performance than was occurring. The financial performance of Calvary Health Care ACT Ltd was inaccurately reported as being 'in balance' in monthly and other reports to the ACT Health Directorate and to the Little Company of Mary Health Care Ltd.

In addition to the inaccurate information entered in Finance One there was manipulation of financial and other reports in order to mislead. Reports that were provided to the ACT Health Directorate were manipulated, in order to ensure that information in them was consistent with information maintained by the ACT Health Directorate.

As well as inaccurate information presented in reports and reported to committees during the 2013-14 financial year, receivables were falsely reported in preparing the 2013-14 financial statements. This perpetuated the misleading financial position that had been reported throughout the year. A falsely reported \$3.7 million receivable was detected by the Chief Financial Officer of the Little Company of Mary Health Care Ltd and corrected before the *Calvary Health Care ACT Ltd 2014 Financial Report* was lodged with the Australian Securities and Investments Commission (ASIC) on 27 August 2014. Other falsely reported receivables totalling \$5.2 million were not identified until early September 2014. This necessitated the re-lodgement of the *Calvary Health Care ACT Ltd 2014 Financial Report* with ASIC on 5 November 2014. This resulted in a loss of \$9.451 million, equivalent to 4.98 per cent of the total revenue received from the ACT Government for the Calvary Public Hospital in 2013-14. There was however no loss to the ACT Government in 2013-14 nor evidence of misappropriation of funding.

The \$5.2 million receivable, in part, was purported to be evidenced and supported by agreement from the ACT Health Directorate during a meeting with Calvary Health Care ACT Ltd on 12 July 2013. This meeting did not occur and the document which purported to evidence it was falsely created. A former Calvary Health Care ACT Ltd executive has admitted creating the false document.

There were warning signs in the reporting of Calvary Health Care ACT Ltd's financial position for the Calvary Public Hospital in 2013-14 that the 'in balance' position being reported was improbable. These warning signs warranted greater examination by those overseeing the financial performance of Calvary Health Care ACT Ltd and the delivery of the Calvary Network Agreement. This did not happen.

### **RESPONSE TO THE INAPPROPRIATE FINANCIAL PRACTICES**

The Little Company of Mary Health Care Ltd's immediate response to specific inappropriate financial practices at Calvary Health Care ACT Ltd in 2013-14, of accepting the resignation of two executives and conducting a forensic investigation into the financial practices was appropriate and timely. However, the workplace investigation of two of the Calvary Health Care ACT Ltd Finance Team involved in the inappropriate financial practices was inadequate. This investigation was ineffectively documented and not conducted in accordance with the requirements of the *ACT Public Sector Health Professional Enterprise Agreement 2013-2017* under which the staff are employed.

Although a range of executives and staff at Calvary Health Care ACT Ltd have asserted that they had concerns with respect to practices at Calvary Health Care ACT Ltd, there is no evidence that these were raised through appropriate channels. Given that most staff in the Calvary Health Care Public Hospital are employed under the terms and conditions of the *Public Sector Management Act 1994* they are obliged to report corrupt or fraudulent conduct or any possible maladministration.

Calvary Health Care ACT Ltd needs to have fully effective employee policy governance documents and processes, including codes of conduct and whistleblowing policy guidance (currently under review), in order to provide guidance to Calvary Health Care ACT Ltd public hospital employees on their responsibilities under the *Public Sector Management Act 1994*. These employees need to be advised that they can report inappropriate practices to non-Little Company of Mary Health Care Ltd (Calvary Health Care ACT Ltd) bodies (e.g. the Commissioner for Public Administration, the Ombudsman or the Auditor-General) and their identity can be protected.

## Key findings

### GOVERNANCE, ADMINISTRATIVE AND CONTRACTUAL ARRANGEMENTS

#### Paragraph

The development of the Calvary Network Agreement (December 2011) is significant as it integrates three previous agreements that were considered to be outdated, complex and inadequately understood. While this is a considerable improvement, the ACT Health Directorate has several other agreements with Calvary Health Care ACT Ltd, the management of which merits consideration for integration with the Calvary Network Agreement. Due to there being several governance and administrative arrangements for the various agreements, a risk exists that the public hospital services overall are not being overseen in an effective and efficient manner.

2.16

The Annual Performance Plan for 2013-14 was developed and finalised by 5 June 2013, the Plan for 2014-15 finalised by 31 July 2014 and, as at 27 October 2015, the Plan for 2015-16 was in the process of being signed by both parties to the agreement. Delays in the development and finalisation of Annual Performance Plans present a risk to the effective management of Calvary Health Care ACT Ltd's delivery of public hospital services.

2.30

The ACT Health Directorate advises that while there have been delays in the final signing of the Annual Performance Plans, and that this has been a regular occurrence over the years, a final agreed position for each year cannot be finalised until the ACT Budget is passed as the passage of the budget has implications on the funding available to provide additional services at Calvary Public Hospital. Furthermore, once the ACT Budget is passed, there is a further process to be undertaken for the ACT Health Directorate to negotiate activity levels and funding with Calvary Health Care ACT Ltd and for the Annual Performance Plan to be endorsed by the Little Company of Mary Health Care Ltd Board. The ACT Health Directorate also advised that the Calvary Public Hospital is one of only two hospitals in the ACT and that Calvary Health Care ACT is expected to continue to perform services at Calvary Public Hospital and undertake activity at the previous year's level until the next agreement is signed. While there may be comfort that services will continue to be provided at Calvary Public Hospital, the late sign-off and agreement of Annual Performance Plans creates uncertainty in activity levels and funding to be provided.

2.32

In 2013-14 communication between the ACT Health Directorate and Calvary Health Care ACT Ltd was inadequate to effectively implement the Calvary Network Agreement. There was a lack of adherence to agreed communication protocols. In particular, some decisions to adjust funding occurred outside of agreed governance arrangements and the agreed process outlined in the Calvary Network Agreement and Annual Performance Plans.

2.38

In 2014-15 the ACT Health Directorate Performance Information Branch, the ACT Health Directorate Finance Team and Calvary Health Care ACT Ltd implemented protocols for the logging and recording of correspondence between the two parties to better control communications associated with the operation of the Calvary Network Agreement. 2.39

The ACT Health Directorate has not documented its consideration of risks associated with the purchase and management of public hospital services from Calvary Health Care ACT Ltd under the Calvary Network Agreement. As no specific risk assessment has been undertaken there is a risk that the ACT Health Directorate is not effectively managing the Agreement. 2.41

The number of activity measures has been reduced in the Annual Performance Plans over time, for example: 2.45

- in 2012-13 and 2013-14 there were eleven different activity measures;
- in 2014-15 these were reduced to three (elective surgery procedures, cost-weighted separations and number of births); and
- the Draft 2015-16 Annual Performance Plan identifies one activity measure (cost weighted separations).

The ACT Health Directorate advised that cost weighted separations, which is a consolidated measure of all hospital activity, weighted according to complexity, is a stronger measure of activity. Similarly, the Little Company of Mary Health Care Ltd advised that a high number of activity measures can result in dysfunctional effort and poor outcomes and that fewer and more-focused activity measures can target resources and improve outcomes. 2.46

The ACT Health Directorate has had a varying ability to recall or reward extra funding for under or over-performance in relation to activities delivered and performance expectations under the Annual Performance Plans. The option for the recall (or extra reward) of funding was only available in relation to two activity measure targets in 2012-13 and 2013-14 (cost weighted separations and elective surgery removals) and one activity measure target in 2015-16 (cost weighted separations). The recall (or extra reward) of funding option was not provided for in 2014-15. This removed one important mechanism for triggering negotiation about the adjustment of funding levels. 2.51

While provisions exist in the Calvary Network Agreement that enable performance variances and difficulties with funding principles to be formally acknowledged and then subject to an agreed framework for their resolution, these provisions have been underused in favour of less formal discussion and settlement. This presents a risk of uncertainty over what has been agreed, a lack of clarity in records upon which others rely and difficulties in elevating matters to Calvary Network Committee members. 2.58

Neither an activity-based funding model or a clinical costing system had been agreed or implemented by 1 February 2015 (three years after the effective commencement date of the agreement). However, in an exchange of letters between the Chief Executive Officer Calvary Health Care ACT Ltd (28 August 2015) and the Deputy Director-General ACT Health Directorate (9 September 2015) agreement was reached to extend the use of the Interim Funding Model for 2015-16 and to consider the suitability of a new funding model before the beginning of the 2016-17 year.

2.60

A period of seven months (between 1 February 2015 and 9 September 2015) elapsed before the Territory (the ACT Health Directorate) and Calvary Health Care ACT Ltd agreed to continue with the Interim Funding Model. This created uncertainty over how specific clauses, for example, clause 13.5(d) that relates to the Territory's ability to recall funding, operate.

2.61

The ACT Health Directorate relied on financial reports to the Finance and Performance Committee to obtain an understanding of the financial position of the Calvary Public Hospital. Monthly financial reports for the Finance and Performance Committee throughout 2013-14 provided operating statements and balance sheet information as required. However, the reports were inadequate as they only provided a very basic explanation narrative with respect to financial performance. For example the February 2014 report noted that 'personnel expenses were in line with the activity' but did not explain the \$4.011 million variance of actual employee expenses (year-to-date) versus forecast. Minutes of the Finance and Performance Committee record committee members requesting greater detail be included in the explanation narrative.

2.72

A single financial Key Performance Indicator of EBITDA (within one per cent) as provided for by Annual Performance Plans, was the overriding key focus for monitoring financial performance in 2013-14 of public hospital services provided by Calvary Health Care ACT Ltd. Monthly reports prepared for the Finance and Performance Committee, the Calvary Network Committee and the Little Company of Mary health Care Ltd executive focused on EBITDA, and did not adequately explain how expenditure and revenues independently were tracking against initially agreed and revised funding levels.

2.75

Externally audited annual financial reports were not provided to the ACT Health Directorate by Calvary Health Care ACT Ltd for the Calvary Public Hospital for the financial years 2012-13 and 2013-14. While Calvary Health Care ACT Ltd prepared and provided an externally audited consolidated financial report covering both the Calvary Public Hospital and Calvary Private Hospital, a separate report had not been produced for the Calvary Public Hospital. Clause 14.1(a) of the Calvary Network Agreement was not met. As a result, there was a lower level of external assurance with respect to Calvary Public Hospital financial statements than that required by the Calvary Network Agreement, which is of particular importance for the reporting of Operating EBITDA, a primary financial performance measure specified in Annual Performance Plans (2012-13 to 2014-15).

2.78

<p>For the 2014-15 financial year, Calvary Health Care ACT Ltd provided the ACT Health Directorate with audited accounts for the organisation (covering both the Calvary Public Hospital and Calvary Private Hospital) and a 'reasonable assurance' report that included a set of extraction accounts for the Calvary Public Hospital that were reviewed by the external auditors. The Little Company of Mary Health Care Ltd has indicated that the 2014-15 approach addresses the intent of the Calvary Network Agreement. This needs to be clarified with the ACT Health Directorate.</p>	2.80
<p>An activity-based funding model has not been developed and implemented for the purpose of determining payments to Calvary Health Care ACT Ltd for its public hospital services. The Calvary Network Agreement required this to be implemented by February 2015. The Calvary Network Agreement provides for the Territory to provide a clinical costing model to guide the implementation of the activity-based funding model. This has also not been achieved.</p>	2.90
<p>In the absence of an agreed and implemented activity-based funding model for funding for Calvary Public Hospital services, the Interim Funding Model provides for payment to Calvary Health Care ACT Ltd for an amount no less than the preceding year's amount, regardless of planned or actual performance levels. The Territory and Calvary Health Care ACT Ltd have agreed to extend the Interim Funding Model for 2015-16, from September 2015.</p>	2.94
<p>Analysis of planned funding (as provided for in Annual Performance Plans) and final funding shows in the three years between 2012-13 and 2014-15, following negotiation between the ACT Health Directorate and Calvary Health Care ACT Ltd over funding and activity levels during each year, final funding provided to Calvary Health Care ACT Ltd was above that which was initially identified in the Annual Performance Plan.</p>	2.99
<p>While there is some certainty in annual funding for Calvary Health Care ACT Ltd under the Interim Funding Model, as funding will be provided that is no less than the final level of funding of the preceding year, there is an inherent uncertainty in the timing of decisions. The final budget may not be confirmed prior to finalising the ACT Government Budget, which may result in activity levels changing. Furthermore, other changes may be made based on negotiation processes. Greater certainty is needed to allow better planning for the delivery of services thereby making their delivery more effective and efficient.</p>	2.103
<p>In 2013-14, a total of \$8.389 million was provided to Calvary Health Care ACT Ltd in addition to the initially agreed funding. While there are agreed formal processes in the Calvary Network Agreement for funding amendments, these processes were not applied in all instances for amendments to funding in 2013-14. There was no evidence of approval from the relevant ACT Health Directorate delegate in the form of an official letter for five of the eleven funding adjustments made in 2013-14, as is the agreed process for making funding changes as outlined in section 6 of the Agreement. Amendments and disputes relating to the 2013-14 Annual Performance Plan have not been recorded in a consistent manner through official letters or at the appropriate executive level.</p>	2.113

Without adhering to an agreed formal approval process for funding changes there is a risk that funding is inappropriately approved. There is also a greater risk of ambiguity over the level of available funding to be recognised in financial systems and reports for a given period. 2.114

There is evidence that the final cost-weighted inpatient separations target for 2013-14 was discussed in the Finance and Performance Committee meeting in January 2014. However, there is no evidence of formal quality assurance and acceptance of a revised target to support the calculation of the final targets for Elective Surgery Operations or the Number of Births activity measures. 2.118

### INAPPROPRIATE FINANCIAL PRACTICES

Paragraph

Primarily as a result of the entry of inaccurate information in Finance One, Calvary Health Care ACT Ltd's Public Hospital Operating EBITDA was revised from a surplus of \$1.925 million reported at year end to a loss of \$9.451 million in the revised *Calvary Health Care ACT Ltd Financial Report* (22 October 2014).<sup>1</sup> This loss equates to 4.98 per cent of the revenue Calvary Public Hospital received from the ACT Government in 2013-14. 3.9

The Little Company of Mary Health Care Ltd advised the Audit Office that the former Chief Executive Officer of Calvary Health Care ACT Ltd was offered the opportunity to resign on 7 August and departed on 14 August 2014. 3.22

On 5 September 2014 the Calvary Health Care ACT Ltd Chief Financial Officer tendered their<sup>2</sup> resignation and provided a written statement that identified that they had, on 30 July 2014, falsely created minutes of the Project Control Group meeting dated 12 July 2013. 3.35

The former Chief Financial Officer of Calvary Health Care ACT Ltd was responsible for preparing written reports associated with Calvary Health Care ACT Ltd's financial position during 2013-14, with the assistance of the Calvary Health Care ACT Ltd Finance Team. The former Calvary Health Care ACT Ltd Chief Executive Officer presented the reports that contained incorrect financial information to different fora. 3.45

Key information consistently conveyed through various financial reports throughout 2013-14 was that: 3.50

- the monthly financial position during 2013-14 was 'in balance' or was 'tracking to meet budgeted result for the end of the financial year';
- each month's Operating EBITDA contribution during 2013-14 was the

<sup>1</sup> There were also other smaller contributing factors to the change in the Operating EBITDA, including an increase in operating expenditure of \$1 206 675 which was a result of an increase in doubtful debt provision of \$1 306 000 and a reduction in accrued payables of \$99 325.

<sup>2</sup> The convention adopted in this report is to use the third person plural pronouns *they*, *them* or *their* instead of singular pronouns *he/she*, *him/her* or *his/her* when referring to an individual

same as what had been budgeted for in July 2013; and

- the 'in balance' position stated in reports was supported by financial data for the revenue, expenditure and Operating EBITDA contribution in the same reports.

The range of financial reports presented to the different fora was produced by Calvary Health Care ACT Ltd executives and officers from inaccurate data entered in Finance One by Calvary Health Care ACT Ltd officers. This incorrect information formed the basis of the financial reports presented to the different fora. The financial reports all identified that the monthly financial position during 2013-14 was 'in balance' and was 'tracking to meet budgeted result for the end of the financial year'. 3.51

Information presented to the Finance and Performance Committee in the fourth quarter of 2013-14 and the Calvary Network Committee in June 2014 was different from the information in Finance One. As the Finance and Performance Committee and Calvary Network Committee included representatives of the ACT Health Directorate, if the reported information had been accurate, they would have been in a better position to identify that the revenue data in Finance One was overstated and incorrect, given their knowledge of agreed funding for the Calvary Public Hospital. 3.60

Information in Finance One and reported to Calvary Health Care ACT Ltd and Little Company of Mary Health Care Ltd accurately reflected expenditure (which was higher than expected) but inaccurately and misleadingly overstated revenue, in order to portray an 'in-balance' position throughout the year. Information reported to the Finance and Performance Committee in the fourth quarter of 2013-14 and the Calvary Network Committee in June 2014 inaccurately reflected revenue and incorrectly understated expenditure, in order to maintain the budgeted EBITDA position. 3.61

While an 'in-balance' position was communicated in financial reports during 2013-14 based on the information in Finance One, there were signs in the same reports that an 'in-balance' position for Calvary Public Hospital was improbable due primarily to accelerated and eventual over recognition of revenues. The improbability of an 'in-balance' position is evident if other information in the monthly financial reports provided to executives is considered. These are: 3.62

- actual revenue versus budgeted revenue;
- actual expenditure versus budgeted expenditure;
- Operating EBITDA; and
- prepaid income in the balance sheet.

Analysis of revenue that was reported in monthly financial reports throughout 2013-14 shows that revenue was being consistently reported over and above the monthly budgeted revenue. The consistent reporting of revenue higher than the monthly budgeted revenue warranted greater examination, discussion and comprehensive explanation in the monthly financial reports than occurred. While it is plausible that revenue recognised monthly during 2013-14 would be on 3.67

average greater than the budgeted figure, there was no explanation provided for the scale of the variance.

Analysis of expenditure that was reported in monthly financial reports to committees, to the Calvary Health Care ACT Ltd Executive team and to Little Company of Mary Health Care Ltd executives throughout 2013-14 shows that expenditure was consistently reported over and above the monthly budgeted expenditure with: 3.73

- actual expenditure for each month in 2013-14 being greater than that budgeted, by between four and 14 per cent per month; and
- total budgeted expenditure for 2013-14 of \$182.751 million being exceeded by \$15.214 million by 30 June 2014.

Analysis of Operating EBITDA that was reported in monthly financial reports throughout 2013-14 shows that the actual Operating EBITDA contribution for the Calvary Public Hospital was exactly the same as the budgeted Operating EBITDA contribution for every month during 2013-14. This indicates that each month's surplus or deficit, predicted when the budget was set prior to the beginning of the year, was achieved exactly, every month of the year. In the absence of other information, reporting each month a zero variance from the budgeted Operating EBITDA strongly indicates that costs are highly controllable and are being tightly controlled and/or revenue streams are flexible and the earning of revenue takes place in a very timely manner. Neither of these scenarios is a likely explanation for a public hospital. The accompanying narrative in financial reports did not state how exactly an 'on budget' Operating EBITDA result was being achieved each and every month. 3.83

Throughout 2013-14 Calvary Public Hospital expenditure was continuously exceeding initially budgeted expenditure. Additional revenue accruals were entered in Finance One by the Calvary Health Care ACT Ltd Finance Team staff on the basis of instruction by the former Calvary Health Care ACT Ltd Chief Financial Officer. The additional revenue accrual amounts entered on a monthly basis sought to balance monthly revenue against monthly expenditure and, accordingly, achieved an 'in balance' monthly Operating EBITDA result, which matched the budgeted Operating EBITDA result. 3.84

Annual Performance Plans developed each year for Calvary Health Care ACT Ltd identify a single financial Key Performance Indicator to 'achieve agreed financial position (EBITDA) within 1 per cent'. Accordingly, it is appropriate that the ACT Health Directorate and the Little Company of Mary Health Care Ltd executive should monitor Operating EBITDA. However, trend information associated with EBITDA results was not presented in a manner that facilitated an understanding of what was occurring, and there was a lack of supporting explanatory narrative and accompanying revenue and expenditure information, which meant that the ACT Health Directorate and the Little Company of Mary Health Care Ltd executive did not receive sufficient information on which to readily review Calvary Health Care ACT Ltd's financial performance. 3.87

The 'prepaid income received' account for Calvary Health Care ACT Ltd's in Finance One primarily relates to ACT Government grant funding. An analysis of this account between February 2014 and June 2014 shows that:	3.98
<ul style="list-style-type: none"><li>• between March 2014 and May 2014 the amounts debited from the account and recognised as Government grant revenue were more than that which had been received as grant funding from the ACT Health Directorate. The account, which should ordinarily be in credit, had an increasing debit balance over this period;</li><li>• by May 2014, the account was in deficit by \$5.806 million. This reflected that \$5.806 million more revenue had been recognised as Government grant revenue by May 2014 than actual funds received from the ACT Health Directorate; and</li><li>• by 30 June 2014, the balance of the account had been reduced to zero once the falsified receivables (refer to paragraph 3.3) had been created. A debit balance for this account would have been problematic for the purposes of the 2013-14 financial statements audit.</li></ul>	
Analysis of journal entries made in the 'prepaid income received account' in Finance One for Calvary Health Care ACT Ltd throughout 2013-14 shows:	3.112
<ul style="list-style-type: none"><li>• a total of 14 entries were made in the 'prepaid income received account' totalling \$12.189 million for the year. One to two entries were made each month for sums of between \$187 000 and \$1.8 million; and</li><li>• entries that were made were identified as 'balancing sums' and were consistently titled 'Adjustment to funding - bring in line to journal/agree with MTD [month to date] position'.</li></ul>	
The inaccurate information entered in the Finance One system was created to offset overspending during the period and derive an Operating EBITDA position that was on budget. The additional revenue accrual amounts entered on a monthly basis sought to balance monthly revenue against monthly expenditure and, accordingly, achieved an 'in balance' monthly Operating EBITDA result, which matched the budgeted Operating EBITDA result. The entries had no basis in accounting principles or standards and had the effect of obscuring the true financial position of Calvary Public Hospital.	3.113
Analysis of Operating EBITDA that was reported in monthly financial reports throughout 2012-13 shows that the actual Operating EBITDA contribution for the Calvary Public Hospital was exactly the same as the budgeted Operating EBITDA contribution in seven of the last nine months of 2012-13, i.e. a zero variance was reported between budgeted and actual Operating EBITDA. This indicates that regular revenue adjustment was likely to have been taking place from October 2012 onwards, using balancing sums in 2012-13, as happened in 2013-14.	3.122

Information in Finance One for Calvary Health Care ACT Ltd, for 2012-13, shows that journal entries were created in the 'prepaid income received account' on a regular basis, similar to the practice that occurred in 2013-14. These records are immediately identifiable as they are named 'Adjustment to funding – ACT Grant journal/to agree MTD position', i.e. they are referred to as 'balancing' sums. 3.123

Analysis of journal entries made in the 'prepaid income received account' in Finance One for Calvary Health Care ACT Ltd throughout 2012-13 shows: 3.126

- a total of nine entries were made in the 'prepaid income received account' totalling \$0.998 million for the year. One to two inaccurate entries were made each month for sums of between + \$1.4467 million and - \$3.958 million; and
- inaccurate entries that were made were identified as 'balancing sums' and were consistently titled 'Adjustment to funding - bring in line to journal/agree with MTD [month to date] position'.

## RESPONSE TO THE INAPPROPRIATE FINANCIAL PRACTICES

Paragraph

The Little Company of Mary Health Care Ltd acted in a timely way in replacing the two senior executives involved in the misreporting of the 2013-14 financial position of the Calvary Public Hospital. 4.9

A Deloitte investigation, which examined the inappropriate financial practices by Calvary Health Care ACT Ltd, recommended that the Little Company of Mary Health Care Ltd consider discussing various issues with the former Chief Executive Officer and former Chief Financial Officer. This did not occur. 4.22

The Chief Executive Officer of the Little Company of Mary Health Care Ltd advised the Audit Office that discussions with the former Chief Executive Officer and former Chief Financial Officer were not sought, because: 4.23

- a review of the email accounts of both by the Little Company of Mary Health Care Ltd had been conducted, and this did not reveal anything that had not already been identified by the Deloitte investigation;
- the former Chief Financial Officer had already provided a written statement upon their resignation on 5 September 2014; and
- the former Chief Financial Officer had commenced action with respect to a workers' compensation claim. The Little Company of Mary Health Care Ltd advised the Audit Office that it was therefore not possible to commence discussions with the former Chief Financial Officer.

The two Calvary Health Care ACT Ltd Finance Team staff members who were investigated in December 2014 were employed under the terms and conditions of *Public Sector Management Act 2004* and the *ACT Public Sector, Health Professional Enterprise Agreement 2013-2017*. However the investigation conducted by the Little Company of Mary Health Care Ltd did not meet the requirements established by this Enterprise Agreement. For example, a written report was not produced in relation to the investigation and so it is not possible to review the reasonableness 4.33

of the outcome of the investigation. In addition, one of the staff members was not advised of the outcome of the investigation until approximately nine months after the completion of the investigation, and only then because the Audit Office brought this deficiency to the attention of Calvary Health Care ACT Ltd and Little Company of Mary Health Care Ltd.

Since late 2014, there have been improvements made to the operation of the Calvary Network Committee and Finance and Performance Committee. Membership of the committees has been revised, with a view to achieving a more effective separation of responsibilities of the committees. Documentation associated with the conduct of meetings has also improved, as minutes are more detailed records of discussion points and agreed actions and are signed. 4.42

Since late 2014, the quality of monthly performance and financial reporting to the Finance and Performance Committee and Calvary Network Committee has improved. Reports are more detailed, informative and supported by explanations of variations in activity and financial performance. However, the inclusion in these reports of information on how year to date revenue reported reconciles to the actual funding paid would be an additional improvement. 4.48

There have been improvements made to Calvary Health Care ACT Ltd and the Little Company of Mary Health Care Ltd's financial management and governance arrangements. Processes have been implemented to facilitate monitoring of compliance with delegations so only officers with delegated authority commit expenditure which is to be within budget limits. Additionally, administrative practices within the Calvary Health Care ACT Ltd Finance Team have been revised to tighten control and oversight of financial arrangements. 4.56

The ACT Health Directorate's appointment of a dedicated contract manager for the Calvary Network Agreement provides a single point of contact for daily interactions with Calvary Health Care ACT Ltd. This reduces the risk of communication ambiguity which has beset relationships in the past. 4.59

A relative of the former Chief Executive Officer of Calvary Health Care ACT Ltd was employed as a temporary employee of Calvary Health Care ACT Ltd. There is no evidence that key requirements of the *Public Sector Management Act 1994* were complied with in the employment of the relative, including the application of a merit-based recruitment process for terms that exceeded 12 months. 4.75

The Little Company of Mary Health Care Ltd advised the Audit Office it had recently developed and finalised (4 November 2015) a *Personal relationships in the workplace* policy to be implemented at all sites in the Little Company of Mary Health Care Ltd group. 4.76

Although executives and staff of Calvary Health Care ACT Ltd have stated to the Audit Office that they had concerns with respect to a range of financial practices at Calvary Health Care ACT Ltd, there is no evidence that these were raised through appropriate channels. For staff members who are employed under the *Public Sector Management Act 1994*, there is a risk for them that they are in breach of 4.87

paragraph 9(q) which provides that one of the general obligations of public sector employees is to report to an appropriate authority any corrupt or fraudulent conduct or any possible maladministration.

The Little Company of Mary Health Care Ltd stated that its whistleblowing policy, in place throughout 2013-14, was ineffective, and that as a result it is in the process of reviewing and revising its policy. The revised whistleblowing policy will need to assist Calvary Health Care ACT Ltd staff as to their obligations under the *Public Sector Management Act 1994*, including with respect to reporting to an appropriate authority any corrupt or fraudulent conduct or any possible maladministration in the public sector. 4.91

Given the events of 2013-14 with the Calvary Network Agreement identified in this audit report, it is timely to consider whether or not having public hospital staff employed under the terms and conditions of the *Public Sector Management Act 1994* is appropriate. 4.101

## Recommendations

### RECOMMENDATION 1 CALVARY NETWORK AGREEMENT AND ENGAGEMENT OF PUBLIC HOSPITAL STAFF

The ACT Government should examine:

- a) the fundamental issue of whether or not the Calvary Network Agreement is the most appropriate mechanism for delivering Public Hospital services; and
- b) whether the Public Hospital staff employed by Calvary Health Care ACT Ltd should be engaged under the terms and conditions of the *Public Sector Management Act 1994* and associated enterprise agreements.

If it is determined that the Calvary Network Agreement is to be retained then Recommendation 2 is a high priority. If it is determined that staff are to be employed by Calvary Health Care ACT Ltd under the *Public Sector Management Act 1994* then Recommendations 6 and 8 are high priority.

### RECOMMENDATION 2 CALVARY NETWORK AGREEMENT

The ACT Health Directorate and the Little Company of Mary Health Care Ltd should review, negotiate and amend the Calvary Network Agreement to address weaknesses identified in this audit report.

**RECOMMENDATION 3      ACT HEALTH DIRECTORATE RISK MANAGEMENT**

The ACT Health Directorate should document its consideration and management of risks associated with the purchase of public hospital services from Calvary Health Care ACT Ltd, including conducting a risk assessment and documenting the management of identified risks.

**RECOMMENDATION 4      EXTERNAL ANNUAL FINANCIAL AUDIT OF CALVARY PUBLIC HOSPITAL**

Calvary Health Care ACT Ltd should seek written confirmation from the ACT Health Directorate that the reporting of the external audit of 2014-2015 Calvary Public Hospital's financial reports is adequate for the purposes of clause 14.1 (a) of the Calvary Network Agreement, which requires the provision of externally audited annual reports for the public hospital to the ACT Government.

**RECOMMENDATION 5      FUNDING MODEL**

The ACT Health Directorate, in consultation with the Little Company of Mary Health Care Ltd and Calvary Health Care ACT Ltd, should commit to a timeframe for the finalisation and implementation of the successor to the interim funding model for Calvary Public Hospital services.

**RECOMMENDATION 6      INVESTIGATIONS OF INAPPROPRIATE WORKPLACE BEHAVIOURS**

The Little Company of Mary Health Care Ltd and Calvary Health Care ACT Ltd should undertake investigations of inappropriate workplace behaviours by its Public Hospital staff in accordance with the *Public Sector Management Act 1994* and any related regulations and relevant enterprise agreements.

**RECOMMENDATION 7      REPORTING OF RECONCILIATION OF MONTHLY REVENUE**

Calvary Health Care ACT Ltd should include the following in its reporting to the ACT Health Directorate in relation the Calvary Network Agreement:

- a) reconciliation of year to date revenue to the actual funding paid year to date, including explanations for reconciling items; and
- b) information on the basis of how revenue items have been recognised, to ensure only approved funded items have been included in the revenue reported.

**RECOMMENDATION 8      INFORMATION AND SUPPORT TO STAFF**

The Little Company of Mary Health Care Ltd and Calvary Health Care ACT Ltd should continue to review, amend and promulgate employee behaviour and conduct documents, including policies relating to employees' conduct and 'whistleblowing', so that Calvary Health Care ACT Ltd public hospital staff are provided with information on:

- a) their duties and obligations under the *Public Sector Management Act 1994*, including their obligation to report any corrupt or fraudulent conduct or any possible maladministration to an appropriate authority; and
- b) options, including the making of a public interest disclosure under the *Public Interest Disclosure Act 2012*, for the reporting of any corrupt or fraudulent conduct or any possible maladministration to appropriate ACT public sector authorities, such as the ACT Health Directorate, the Commissioner for Public Administration or the ACT Auditor-General.

## Auditees' responses

In accordance with section 18 of the *Auditor-General Act 1996*, on 13 November 2015 a draft of the proposed report (v1) was provided to the Little Company of Mary Health Care Ltd for comment. A response was received on 2 December 2015. This was considered in finalising the report prior to inviting comments (in accordance with subsection 18(4)) from the ACT Health Directorate on a draft proposed report (v2) and other relevant parties on extracts from the draft proposed report (v2).

In accordance with subsection 18(5) of the *Auditor-General Act 1996* the ACT Health Directorate was provided with the draft proposed report (v2) on 15 December 2015. A response was received on 22 January 2016.

Subsequently the ACT Health Directorate and the Little Company of Mary Health Care Ltd were provided with a further draft proposed report (v3) on 15 February 2016. The ACT Health Directorate responded on 7 March 2016 and the Little Company of Mary Health Care Ltd responded on 7 March 2016.

Comments provided by auditees have been considered in developing the final proposed report which was provided to the ACT Health Directorate and the Little Company of Mary Health Care Ltd on 21 March 2016. Auditees were invited to further comment and provide comments for inclusion in the Summary chapter. The ACT Health Directorate did not provide comments for inclusion or respond to the recommendations in the Summary chapter. Those provided by the Little Company of Mary Health Care Ltd have been included.

In accordance with subsection 18(3) of the *Auditor-General Act 1996*, extracts of the draft proposed reports (v2 and v3) were provided to individuals who have a direct interest in the proposed report. Accordingly extracts were provided to the former Chief Executive Officer of Calvary Health Care ACT Ltd, the former Chief Financial Officer of Calvary Health Care ACT Ltd, and

two members of the Calvary Health Care ACT Ltd Finance Team for comment. Comments received were considered in developing the final proposed report. Furthermore, these individuals were offered the opportunity to provide a written statement for inclusion in the report. Statements were provided by two of these people, and have been included in Chapter 3.

### **The Little Company of Mary Health Care Ltd (Calvary) response:**

*The matter was, and is, a matter of serious concern to Calvary, both at the executive and board level since the initial issues were discovered.*

*Action was taken as soon as issues came to LCMHC Management's attention, including the appointment of Deloitte Forensic Auditing and that, as noted in the report; Calvary has implemented a comprehensive range of measures to avoid a recurrence.*

*The financial consequences of the loss were entirely a matter for LCMHC. There was no financial impact on the ACT Government, nor any risk of that occurring. On the contrary, the people of the Territory have benefited from the resources and services supplied by Calvary in addition to the budget provided by the ACT Government.*

*Calvary note that many of the funding issues the Auditor-General has raised, including budgeting and appropriations, will be addressed if the introduction of activity based funding is expedited by the Territory, as was agreed in the CNA.*

*Calvary took immediate action to replace staff, rectify the financial challenges left in the wake of the financial misrepresentation and implemented controls to safeguard against any further impact. In addition, staff are being made more aware of their rights under the Calvary Code of Conduct and the PSMA and their capacity to raise issues with senior management or through Whistleblower hotlines, notwithstanding the distribution of the Code of Conduct to employees which outlines their rights under s. 9 of the PSMA with their employment agreement.*

*Money was not "lost" nor misappropriated, services were delivered in good faith and monies were spent on supplementing emergency department activity and the recruitment of additional doctors and nurses with the result being the continued delivery of quality clinical services to the Canberra community.*

*Calvary Public Hospital Bruce provides health services as a network partner with the ACT Health Directorate. Calvary will continue to work in partnership with the ACT Health Directorate to deliver high quality care to the community of Canberra and resolve any outstanding issues identified as a result of this audit.*

### **Audit Office comment**

The Little Company of Mary Health Care Ltd comment that 'monies were spent on supplementing emergency department activity and the recruitment of additional doctors and nurses with the result being the continued delivery of quality clinical services to the Canberra community' covers subject matter not part of the audit.

## Little Company of Mary Health Care Ltd (Calvary) response to recommendations

### Recommendation 1

*Recommendation 1(a) is for the ACT Government that the CNA be renegotiated. Calvary is of the view this is unnecessary, duplicative and a drain on resource given the context in which the agreement was developed cooperatively with Calvary by the ACT Government in 2010-2011. If this is to go forward then it must be noted that any renegotiation of clauses should be undertaken with the agreement of Calvary and the Territory as the contracting parties.*

*Many of the issues that were noted arising out of the 2013-2014 misreporting were not a function of a poor implementation of CNA processes but rather due to a lack of compliance with the terms of the CNA. Calvary's view is that the rigour of the CNA should be applied and that ACT Health deals with Calvary as a Network Provider within the Territory as a whole which prevents any miscommunication and improves relationships.*

*Recommendation 1(b) is for the Territory and Calvary's only comment would be that whilst this would be an initiative worth exploring, the very nature of employees current terms, conditions and entitlements and employees utilisation across the Territory, in some cases, makes any wholesale re-organisation of employees terms and conditions a sensitive topic and it requires a lot of thought to ensure no one is disadvantaged.*

### Recommendation 2

*Not Agreed. Calvary suggests that the initial focus should be on compliance with the existing CNA rather than developing a new one for the reasons set out in Recommendation 1(a). As provided, a review of the CNA once it has operated as it was intended, for an agreed period, could then be conducted by the Parties to the CNA. Calvary considers this is an important step in ensuring good communications.*

### Recommendation 4

*Agreed. Calvary believes a set of extraction accounts with review by the external auditors who conduct the full audit ("Reasonable Assurance Report") ensures compliance with the relevant provision in the CNA and will seek agreement from ACT Health Directorate based on the use of this method already for the FY 14/15. We will discuss this with ACT Health to confirm the position.*

### **Recommendation 5**

*Agree. The CNA sets out the mechanisms for funding and also recognises that an activity based funding model will be adopted once developed by the Territory. Calvary has previously agreed to the activity based funding model. This is being introduced nationally, with an efficient price, as the funding model that all hospitals are moving to Australia wide.*

### **Recommendation 6**

*Partially Agree. Calvary does investigate in accordance with the principles of natural justice. The PSMA will be used as it is already. Calvary is also committed to continue to report any corrupt or fraudulent conduct or any possible maladministration to an appropriate authority e.g. The Territory, ASIC, ACNC or the AFP.*

### **Recommendation 7**

*Calvary understands that this is already occurring through the use of current reconciliation reporting "Run Sheets" between ACT Health Directorate and CHCACT Limited. This contains items of Revenue, Profit and Loss and EBITDA. This occurs periodically, two weeks after month end. This report also provides explanations of reconciliations and the basis for the recognition of revenue. Calvary will seek ACT Health's approval that this report is sufficient, reconciled monthly, and have this tabled at future F&P Meetings.*

### **Recommendation 8**

*Agree. However, as discussed, it has been established that the rights employees are given under s. 9 of the PSMA is incorporated in the Bruce Code of Conduct received by employees on commencement of employment. Calvary has subsequently made employees more aware of their rights under such legislation and the capacity to source other means of support, be it by the existing National Calvary Whistle-blower hotline, Professional Organisations or, if the event qualifies, the PID regime in the ACT.*

# 1 INTRODUCTION

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- 1.1 This chapter presents background information on Calvary Public Hospital and the conduct of this audit, including the audit objective, scope and criteria.

## Background

### Calvary Public Hospital

- 1.2 Calvary Public Hospital is an integral part of the ACT Local Hospital Network which is administered by the Director-General of the ACT Health Directorate and supported by staff from the ACT Health Directorate. Calvary Public Hospital provides a significant proportion of the ACT's public hospital services. In 2014-15 this amounted to:
- 44.1 per cent of all elective surgery procedures;
  - 34.8 per cent of all births; and
  - 43.4 per cent of total Emergency Department presentations.
- 1.3 It is co-located with the Calvary Private Hospital at Bruce. These hospitals are operated by Calvary Health Care ACT Ltd, a subsidiary of the Little Company of Mary Health Care Ltd.
- 1.4 The principle of a Calvary-operated public hospital on land at Bruce was established 45 years ago following an agreement between the Commonwealth and the Little Company of Mary in 1971. This agreement has been supplemented several times since, notably to provide for the private hospital at Bruce. Other supplementary agreements have related to issues such as employment arrangements and additional private hospital services.
- 1.5 A *Bruce Health Care Precinct* deed (7 December 2011) defines the relationship between the ACT Government and Calvary Health Care ACT Ltd and respective rights and responsibilities in relation to the Precinct. It also describes the processes for that relationship to create and progress the development of the Precinct. Calvary holds a 99-year crown lease on the land which was renewed on 16 November 1999.

### Little Company of Mary Health Care Ltd

- 1.6 The Little Company of Mary Health Care Ltd operates 15 public and private hospitals, 15 retirement and aged care facilities and 22 community care centres. These are located in the ACT where the Little Company of Mary Health Care Ltd operates the Calvary Public Hospital and provides aged and retirement services and also community care, in New South Wales, Victoria, Tasmania, Northern Territory and South Australia.
- 1.7 The Little Company of Mary Health Care Ltd's 2013-14 Financial Statements (22 October 2014) indicate that it received \$1.066 billion in operating revenue, with operating expenditure of \$1.054 billion. For 2013-14, financial reports extracted from the Little

Company of Mary Health Care Ltd's financial management system (Finance One) indicate that Calvary Public Hospital received \$189.721 million in operating revenue, and had operating expenditure of \$199.172 million.

- 1.8 As a not-for-profit charitable entity the Little Company of Mary Health Care Ltd is subject to the *Corporations Act 2001* and the *Australian Charities and Not-for-profits Commission Act 2012*. Surpluses made by the Little Company of Mary Health Care Ltd are reinvested in the provision of health by this entity.
- 1.9 The Little Company of Mary Health Care Ltd is governed by a Board comprising non-executive members. The Board is supported by subcommittees comprising members of the Board. An executive team comprises a Chief Executive Officer, a Chief Financial Officer, and eight National Directors including a National Director for public hospitals.

### ACT Audit Office 2008 performance audit

- 1.10 In 2008, the ACT Audit Office's performance audit report on the *Management of Calvary Hospital Agreements* was tabled in the Legislative Assembly. It identified that there were six service agreements between the ACT Government and Calvary Health Care ACT Ltd (for both public hospital and private hospital services) and that this contributed to problems with respect to the efficient and effective management of the contractual relationship between the ACT Health Directorate and Calvary Health Care ACT Ltd. The agreements were found to be complex, out of date and not fully reflective of the relationship between the parties. To overcome the issues identified it was recommended that a single agreement be established between the parties.

### Calvary Network Agreement

- 1.11 On 7 December 2011, the Calvary Network Agreement was agreed between the ACT Government and Calvary Health Care ACT Ltd. The Minister for Health stated at the time:

Today I signed a new suite of agreements with Little Company of Mary Health Care which will provide both the ACT Government and Calvary Hospital with certainty over the future of health services on the Bruce campus. This is a momentous occasion after extensive discussions around the best ways of delivering an integrated and networked hospital system for the ACT community.

It has been a long road and it has been difficult to unravel the series of complex, historical agreements, some of which had been in place for nearly forty years and preceded self-government. These outdated agreements were no longer appropriate for a modern hospital system. Negotiating these new agreements has been complex but we can now look to the future with certainty and move forward with the confidence that we will continue to deliver the best possible health services to the community.

- 1.12 The Calvary Network Agreement came into force on 1 February 2012. The Little Company of Mary Health Care Ltd has advised that it is an evergreen agreement. The delivery of public hospital services by Calvary Health Care ACT Ltd at Bruce is provided through this agreement with its supporting governance and management arrangements (refer to paragraphs 2.2 to 2.43).

- 1.13 The ACT Government established a 'cash budget allocation' of \$195.439 million<sup>3</sup> in the 2015-16 Annual Performance Plan to be paid to Calvary Health Care ACT Ltd for Calvary Public Hospital services. In the three preceding years the amount established in the initial cash budget allocation has been exceeded by year end as additional services have been agreed during the year.

### Inappropriate financial practices

- 1.14 Throughout 2013-14, inaccurate information for Calvary Health Care ACT Ltd was entered into the Little Company of Mary Health Care Ltd's financial management system (Finance One). Finance One was relied on to generate reports on the financial situation of Calvary Health Care ACT Ltd and the inaccurately entered information had the effect of reporting a better financial performance than was occurring. At the end of the 2013-14 financial year, to justify the reported financial performance, a total of \$8.892 million in receivables were falsely reported. The receivables were reported to be owed to Calvary Health Care ACT Ltd by the ACT Government.
- 1.15 The inclusion of these receivables led to Calvary Health Care ACT Ltd's 2013-14 Public Hospital financial results being presented more positively than was actually the case. The subsequent removal of these receivables resulted in Calvary Health Care ACT Ltd's Public Hospital financial position being an operating deficit of \$9.451 million rather than an operating surplus of \$1.925 million, as would have been the case if the receivables had not been removed.<sup>4</sup>
- 1.16 Although inaccurate information was entered into the Little Company of Mary Health Care Ltd's financial management system (Finance One), the resulting financial loss incurred by Calvary Health Care ACT Ltd in 2013-14 did not represent a direct loss or liability in 2013-14 for the ACT Government or the ACT community. No funds were misappropriated. The loss was consolidated within the Little Company of Mary Health Care Ltd group accounts for 2013-14. In a media release (11 October 2014) the Little Company of Mary Health Care Ltd's Chief Executive Officer stated:
- Calvary [The Little Company of Mary Health Care Ltd] has absorbed the budget overrun from the last financial year, so I want to make it very clear that there is no impact for ACT taxpayers or the ACT Government.
- 1.17 Chapter 3 presents detailed information on the inappropriate financial practices.

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<sup>3</sup> Calvary Public Hospital Bruce Annual Performance Plan 2015-16 (draft 20 October 2015, page 14)

<sup>4</sup> There were also other smaller contributing factors to the change in financial position, including an increase in operating expenditure.

## Basis for conducting the audit

- 1.18 On 16 September 2014, the Director-General of the ACT Health Directorate wrote to the Auditor-General outlining concerns with respect to financial and performance reporting at the Calvary Public Hospital. The Auditor-General, after consideration of these concerns, determined that they warranted the conduct of a performance audit.
- 1.19 Since Calvary Health Care ACT Ltd is a subsidiary of the Little Company of Mary Health Care Ltd and the Little Company of Mary Health Care Ltd is a non-public sector entity, the Auditor-General considered powers available under section 13D of the *Auditor-General Act 1996* in relation to the auditing of a non-public sector entity. Section 13D of the Act allows the Auditor-General to conduct an audit of a non-public sector entity that is in receipt of property from a public sector entity, with respect to the non-public sector entity's use of the property. These powers are to be exercised only if:
- the usual acquittal procedures for the use of property provided by a public sector entity have been exhausted;
  - there are no other mechanisms reasonably available to the public sector entity to resolve the proposed subject of the audit; and
  - failure to conduct the audit may result in significant risk to the Territory.
- 1.20 The Auditor-General considered that these requirements were met. In this respect, the Auditor-General recognised that Calvary Health Care ACT Ltd was in receipt of property, in the form of payments for services, from the ACT Health Directorate, and that:
- the usual acquittal procedures for the use of property (i.e. funding provided by the ACT Health Directorate) had been exhausted. In this respect, the usual performance and financial reporting mechanisms in place under the Calvary Network Agreement, including the conduct of monthly Calvary Finance and Performance Committee meetings, did not identify or bring to light the issues subsequently raised by the Director-General of the ACT Health Directorate;
  - there were no other mechanisms reasonably available to the ACT Health Directorate to resolve the proposed subject of the audit. In this respect, the ACT Health Directorate's communication with the Audit Office in September 2014, including statements that 'the outcome of recent meetings with Calvary, and the resignation of two of the most senior officers at Calvary suggests that there have been deliberate practices put in place to misinform the Territory. This was not expected and is outside of the nature of the agreement between the Territory and Calvary' and 'given the extensive issues which have been realised over recent weeks, you may wish to consider exercising powers under your Act' indicate that the ACT Health Directorate's opportunities to resolve the issues were limited. Furthermore, the power of the Auditor-General to obtain information and enter premises to access any documents was broader than the opportunities afforded by the Calvary Network Agreement; and

- failure to conduct the audit could result in significant risk to the Territory. In this respect, the services performed by Calvary Health Care ACT Ltd to the ACT Health Directorate, and the broader ACT community, are significant from a community perspective and financial perspective. Failure to consider the concerns raised by the Director-General of the ACT Health Directorate could have resulted in a lack of accountability for these services.

1.21 Satisfied that these conditions were met, on 6 March 2015 the Auditor-General wrote to the Director-General of the ACT Health Directorate, the Chief Executive Officer of Calvary Health Care ACT Ltd, the National Director Public Hospitals of Little Company of Mary Healthcare Ltd, the Speaker of the Legislative Assembly and the Chair of the Public Accounts Committee of the Legislative Assembly to advise that a performance audit would be undertaken.

## Audit objective, criteria, approach and method

### Audit objective

1.22 The objective of this audit is to provide an independent opinion to the Legislative Assembly on:

- the effectiveness of governance, management and contractual arrangements between the operators of Calvary Public Hospital and the ACT Health Directorate. This includes consideration of financial and performance management; and
- the adequacy of actions taken by the Little Company of Mary Health Care Ltd and Calvary Health Care ACT Ltd to identify and correct inappropriate financial practices that took place in 2013-14.

### Audit criteria

1.23 In relation to the effectiveness of governance, management and contractual arrangements (including financial and performance management) between the operators of Calvary Public Hospital and the ACT Health Directorate, this audit considered whether or not:

- the Calvary Network Agreement provides the ACT Health Directorate with an appropriate framework to purchase public hospital services at agreed prices;
- governance, management and communication, particularly in 2013-14, was adequate; and
- performance and financial management reporting by Calvary Health Care ACT Ltd and performance and financial monitoring by the ACT Health Directorate was adequate.

1.24 In relation to the adequacy of actions taken by the Little Company of Mary Health Care Ltd and Calvary Health Care ACT Ltd to identify and correct inappropriate financial practices that took place in 2013-14, the performance audit considered:

- the thoroughness of the immediate investigative response by the Little Company of Mary Health Care Ltd; and
- the changes in governance, management and communication made in response.

### **Audit approach and method**

1.25 The performance audit adopted the Audit Office's Performance Audit Methods and Practices (PAMPr) and related Policies, Practice Statements and Guidance Papers. These policies and practices have been designed to comply with the requirements of the *Auditor-General Act 1996* and relevant professional standards (including *ASAE 3500 – Performance Engagements*).

1.26 The audit involved:

- reviewing governance and administrative documentation associated with the delivery of public hospital services by Calvary Health Care ACT Ltd, including:
  - key contractual documents for the delivery of services;
  - minutes of meetings and correspondence between Calvary Health Care ACT Ltd and the ACT Health Directorate;
- reviewing financial reports and other financial information prepared and provided by Calvary Health Care ACT Ltd (and the ACT Health Directorate);
- consideration of previous reviews and investigations in relation to financial management practices at Calvary Health Care ACT Ltd;
- discussions with representatives of the ACT Health Directorate, Calvary Health Care ACT Ltd and the Little Company of Mary Health Care Ltd; and
- interviews conducted under oath or affirmation, in accordance with section 14A of the *Auditor-General Act 1996*.

1.27 The Audit Office engaged Axiom Associates to assist with the conduct of this audit. In addition advice was sought and received from the ACT Government's Commissioner for Public Administration over the conduct of workplace investigations and from Bob Sendt & Associates over financial matters, in particular the monitoring of operating surpluses (and deficits).

## 2 GOVERNANCE, ADMINISTRATIVE AND CONTRACTUAL ARRANGEMENTS

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2.1 This chapter examines the operation of the Calvary Network Agreement, including the governance arrangements in place to support this agreement. Of particular focus are the arrangements that were in place leading up to, and during, 2013-14 when inappropriate financial practices occurred. These practices are discussed in Chapter 3. Chapter 4 presents changes that have been made to the governance and administration in response to inappropriate financial practices.

### Summary

### Conclusion

Governance and administrative arrangements for the Calvary Network Agreement for the delivery of public hospital services provided by Calvary Health Care ACT Ltd in 2013-14 were inadequately implemented and in some instances the arrangements themselves were inadequate. Importantly, some key clauses in the Calvary Network Agreement were not adhered to, were ineffectively implemented or need to be revised. The ACT Health Directorate has adopted an informal approach in relation to Calvary Health Care ACT Ltd and its management of the Calvary Network Agreement. However, it is incumbent on the ACT Health Directorate, as the party ultimately responsible for the management of the delivery of public hospital services, to take a strong leadership role. This was lacking in 2013-14.

Communication between the ACT Health Directorate and Calvary Health Care ACT Ltd (and Little Company of Mary Health Care Ltd) did not occur in a timely manner. This resulted in uncertainty regarding decisions made on service activity levels and funding. Additionally, the effectiveness of governance committees with responsibility for overseeing and monitoring the delivery of Calvary Public Hospital services was compromised due to inadequate documentation of committee meetings.

The development and agreement of annual service activity levels and funding, as required in Annual Performance Plans supporting the Calvary Network Agreement, is problematic. Plans were developed and finalised late, some many months into the financial year. It is important that plans are finalised in a timely manner so that there is certainty for Calvary Health Care ACT Ltd with respect to the services it needs to deliver and for the ACT Government regarding funding commitments.

The Calvary Network Agreement required the parties to transition to an activity-based funding model for the delivery of public hospital services by Calvary Health Care ACT Ltd by 1 February 2015. A pre-requisite for the transition was for the ACT Health Directorate to provide a clinical costing model to Calvary Health Care ACT Ltd. This did not occur. Until an activity-based funding

model is implemented Calvary Health Care ACT Ltd will receive funding for an amount no less than that received for the preceding year, regardless of activity levels. Having an activity-based funding model may offer advantages to the ACT Government in that it may provide certainty on the calculation of funding. However, the ACT Health Directorate did not give priority to its development.

## Key findings

	Paragraph
<p>The development of the Calvary Network Agreement (December 2011) is significant as it integrates three previous agreements that were considered to be outdated, complex and inadequately understood. While this is a considerable improvement, the ACT Health Directorate has several other agreements with Calvary Health Care ACT Ltd, the management of which merits consideration for integration with the Calvary Network Agreement. Due to there being several governance and administrative arrangements for the various agreements, a risk exists that the public hospital services overall are not being overseen in an effective and efficient manner.</p>	2.16
<p>The Annual Performance Plan for 2013-14 was developed and finalised by 5 June 2013, the Plan for 2014-15 finalised by 31 July 2014 and, as at 27 October 2015, the Plan for 2015-16 was in the process of being signed by both parties to the agreement. Delays in the development and finalisation of Annual Performance Plans present a risk to the effective management of Calvary Health Care ACT Ltd's delivery of public hospital services.</p>	2.30
<p>The ACT Health Directorate advises that while there have been delays in the final signing of the Annual Performance Plans, and that this has been a regular occurrence over the years, a final agreed position for each year cannot be finalised until the ACT Budget is passed as the passage of the budget has implications on the funding available to provide additional services at Calvary Public Hospital. Furthermore, once the ACT Budget is passed, there is a further process to be undertaken for the ACT Health Directorate to negotiate activity levels and funding with Calvary Health Care ACT Ltd and for the Annual Performance Plan to be endorsed by the Little Company of Mary Health Care Ltd Board. The ACT Health Directorate also advised that the Calvary Public Hospital is one of only two hospitals in the ACT and that Calvary Health Care ACT is expected to continue to perform services at Calvary Public Hospital and undertake activity at the previous year's level until the next agreement is signed. While there may be comfort that services will continue to be provided at Calvary Public Hospital, the late sign-off and agreement of Annual Performance Plans creates uncertainty in activity levels and funding to be provided.</p>	2.32

In 2013-14 communication between the ACT Health Directorate and Calvary Health Care ACT Ltd was inadequate to effectively implement the Calvary Network Agreement. There was a lack of adherence to agreed communication protocols. In particular, some decisions to adjust funding occurred outside of agreed governance arrangements and the agreed process outlined in the Calvary Network Agreement and Annual Performance Plans. 2.38

In 2014-15 the ACT Health Directorate Performance Information Branch, the ACT Health Directorate Finance Team and Calvary Health Care ACT Ltd implemented protocols for the logging and recording of correspondence between the two parties to better control communications associated with the operation of the Calvary Network Agreement. 2.39

The ACT Health Directorate has not documented its consideration of risks associated with the purchase and management of public hospital services from Calvary Health Care ACT Ltd under the Calvary Network Agreement. As no specific risk assessment has been undertaken there is a risk that the ACT Health Directorate is not effectively managing the Agreement. 2.41

The number of activity measures has been reduced in the Annual Performance Plans over time, for example: 2.45

- in 2012-13 and 2013-14 there were eleven different activity measures;
- in 2014-15 these were reduced to three (elective surgery procedures, cost-weighted separations and number of births); and
- the Draft 2015-16 Annual Performance Plan identifies one activity measure (cost weighted separations).

The ACT Health Directorate advised that cost weighted separations, which is a consolidated measure of all hospital activity, weighted according to complexity, is a stronger measure of activity. Similarly, the Little Company of Mary Health Care Ltd advised that a high number of activity measures can result in dysfunctional effort and poor outcomes and that fewer and more-focused activity measures can target resources and improve outcomes. 2.46

The ACT Health Directorate has had a varying ability to recall or reward extra funding for under or over-performance in relation to activities delivered and performance expectations under the Annual Performance Plans. The option for the recall (or extra reward) of funding was only available in relation to two activity measure targets in 2012-13 and 2013-14 (cost weighted separations and elective surgery removals) and one activity measure target in 2015-16 (cost weighted separations). The recall (or extra reward) of funding option was not provided for in 2014-15. This removed one important mechanism for triggering negotiation about 2.51

the adjustment of funding levels.

While provisions exist in the Calvary Network Agreement that enable performance variances and difficulties with funding principles to be formally acknowledged and then subject to an agreed framework for their resolution, these provisions have been underused in favour of less formal discussion and settlement. This presents a risk of uncertainty over what has been agreed, a lack of clarity in records upon which others rely and difficulties in elevating matters to Calvary Network Committee members. 2.58

Neither an activity-based funding model or a clinical costing system had been agreed or implemented by 1 February 2015 (three years after the effective commencement date of the agreement). However, in an exchange of letters between the Chief Executive Officer Calvary Health Care ACT Ltd (28 August 2015) and the Deputy Director-General ACT Health Directorate (9 September 2015) agreement was reached to extend the use of the Interim Funding Model for 2015-16 and to consider the suitability of a new funding model before the beginning of the 2016-17 year. 2.60

A period of seven months (between 1 February 2015 and 9 September 2015) elapsed before the Territory (the ACT Health Directorate) and Calvary Health Care ACT Ltd agreed to continue with the Interim Funding Model. This created uncertainty over how specific clauses, for example, clause 13.5(d) that relates to the Territory's ability to recall funding, operate. 2.61

The ACT Health Directorate relied on financial reports to the Finance and Performance Committee to obtain an understanding of the financial position of the Calvary Public Hospital. Monthly financial reports for the Finance and Performance Committee throughout 2013-14 provided operating statements and balance sheet information as required. However, the reports were inadequate as they only provided a very basic explanation narrative with respect to financial performance. For example the February 2014 report noted that 'personnel expenses were in line with the activity' but did not explain the \$4.011 million variance of actual employee expenses (year-to-date) versus forecast. Minutes of the Finance and Performance Committee record committee members requesting greater detail be included in the explanation narrative. 2.72

A single financial Key Performance Indicator of EBITDA (within one per cent) as provided for by Annual Performance Plans, was the overriding key focus for monitoring financial performance in 2013-14 of public hospital services provided by Calvary Health Care ACT Ltd. Monthly reports prepared for the Finance and Performance Committee, the Calvary Network Committee and the Little Company of Mary health Care Ltd executive focused on EBITDA, and did not adequately 2.75

explain how expenditure and revenues independently were tracking against initially agreed and revised funding levels.

Externally audited annual financial reports were not provided to the ACT Health Directorate by Calvary Health Care ACT Ltd for the Calvary Public Hospital for the financial years 2012-13 and 2013-14. While Calvary Health Care ACT Ltd prepared and provided an externally audited consolidated financial report covering both the Calvary Public Hospital and Calvary Private Hospital, a separate report had not been produced for the Calvary Public Hospital. Clause 14.1(a) of the Calvary Network Agreement was not met. As a result, there was a lower level of external assurance with respect to Calvary Public Hospital financial statements than that required by the Calvary Network Agreement, which is of particular importance for the reporting of Operating EBITDA, a primary financial performance measure specified in Annual Performance Plans (2012-13 to 2014-15). 2.78

For the 2014-15 financial year, Calvary Health Care ACT Ltd provided the ACT Health Directorate with audited accounts for the organisation (covering both the Calvary Public Hospital and Calvary Private Hospital) and a 'reasonable assurance' report that included a set of extraction accounts for the Calvary Public Hospital that were reviewed by the external auditors. The Little Company of Mary Health Care Ltd has indicated that the 2014-15 approach addresses the intent of the Calvary Network Agreement. This needs to be clarified with the ACT Health Directorate. 2.80

An activity-based funding model has not been developed and implemented for the purpose of determining payments to Calvary Health Care ACT Ltd for its public hospital services. The Calvary Network Agreement required this to be implemented by February 2015. The Calvary Network Agreement provides for the Territory to provide a clinical costing model to guide the implementation of the activity-based funding model. This has also not been achieved. 2.90

In the absence of an agreed and implemented activity-based funding model for funding for Calvary Public Hospital services, the Interim Funding Model provides for payment to Calvary Health Care ACT Ltd for an amount no less than the preceding year's amount, regardless of planned or actual performance levels. The Territory and Calvary Health Care ACT Ltd have agreed to extend the Interim Funding Model for 2015-16, from September 2015. 2.94

Analysis of planned funding (as provided for in Annual Performance Plans) and final funding shows in the three years between 2012-13 and 2014-15, following negotiation between the ACT Health Directorate and Calvary Health Care ACT Ltd over funding and activity levels during each year, final funding provided to Calvary Health Care ACT Ltd was above that which was initially identified in the Annual Performance Plan. 2.99

While there is some certainty in annual funding for Calvary Health Care ACT Ltd under the Interim Funding Model, as funding will be provided that is no less than the final level of funding of the preceding year, there is an inherent uncertainty in the timing of decisions. The final budget may not be confirmed prior to finalising the ACT Government Budget, which may result in activity levels changing. Furthermore, other changes may be made based on negotiation processes. Greater certainty is needed to allow better planning for the delivery of services thereby making their delivery more effective and efficient.

2.103

In 2013-14, a total of \$8.389 million was provided to Calvary Health Care ACT Ltd in addition to the initially agreed funding. While there are agreed formal processes in the Calvary Network Agreement for funding amendments, these processes were not applied in all instances for amendments to funding in 2013-14. There was no evidence of approval from the relevant ACT Health Directorate delegate in the form of an official letter for five of the eleven funding adjustments made in 2013-14, as is the agreed process for making funding changes as outlined in section 6 of the Agreement. Amendments and disputes relating to the 2013-14 Annual Performance Plan have not been recorded in a consistent manner through official letters or at the appropriate executive level.

2.113

Without adhering to an agreed formal approval process for funding changes there is a risk that funding is inappropriately approved. There is also a greater risk of ambiguity over the level of available funding to be recognised in financial systems and reports for a given period.

2.114

There is evidence that the final cost-weighted inpatient separations target for 2013-14 was discussed in the Finance and Performance Committee meeting in January 2014. However, there is no evidence of formal quality assurance and acceptance of a revised target to support the calculation of the final targets for Elective Surgery Operations or the Number of Births activity measures.

2.118

## Contractual arrangements for Calvary Public Hospital services

2.2 Preceding the Calvary Network Agreement of 2011, there had been six agreements over 40 years that provided for hospital services to be provided by the Little Company of Mary Health Care Ltd (and its predecessors) at Bruce. Three of these agreements related solely to public hospital services:

- a 1971 Agreement relating to the construction of Calvary Hospital, between the Commonwealth Government and the Corporation of the Little Company of Mary;

- a 1979 Supplementary Agreement relating to the construction, operation and maintenance of Calvary Hospital, between the Capital Territory Health Commission and the Corporation of the Little Company of Mary; and
  - a 1991 Second Supplementary Agreement relating to the running of Calvary Public Hospital, between the ACT Government and Calvary Hospital ACT Incorporated.
- 2.3 A 2008 ACT Audit Office *Management of Calvary Hospital Agreements* performance audit reviewed the operation of the six service agreements between the ACT Government and Calvary Health Care ACT Ltd and found:
- The existing agreements are complex, not well understood, out of date, and not fully reflective of the relationship between the parties. This results in inefficiencies (for ACT Health and [Calvary Health Care ACT Ltd]) in managing the contractual relationship.
- 2.4 The audit report stated that the ‘consolidation of the current agreements would make management easier. Replacing the set of agreements with a new, single agreement is necessary in the longer term’.
- 2.5 In August 2008 the ACT Government expressed interest in purchasing Calvary Public Hospital. By August 2010 the Government had withdrawn its interest in the purchase.

## The Calvary Network Agreement

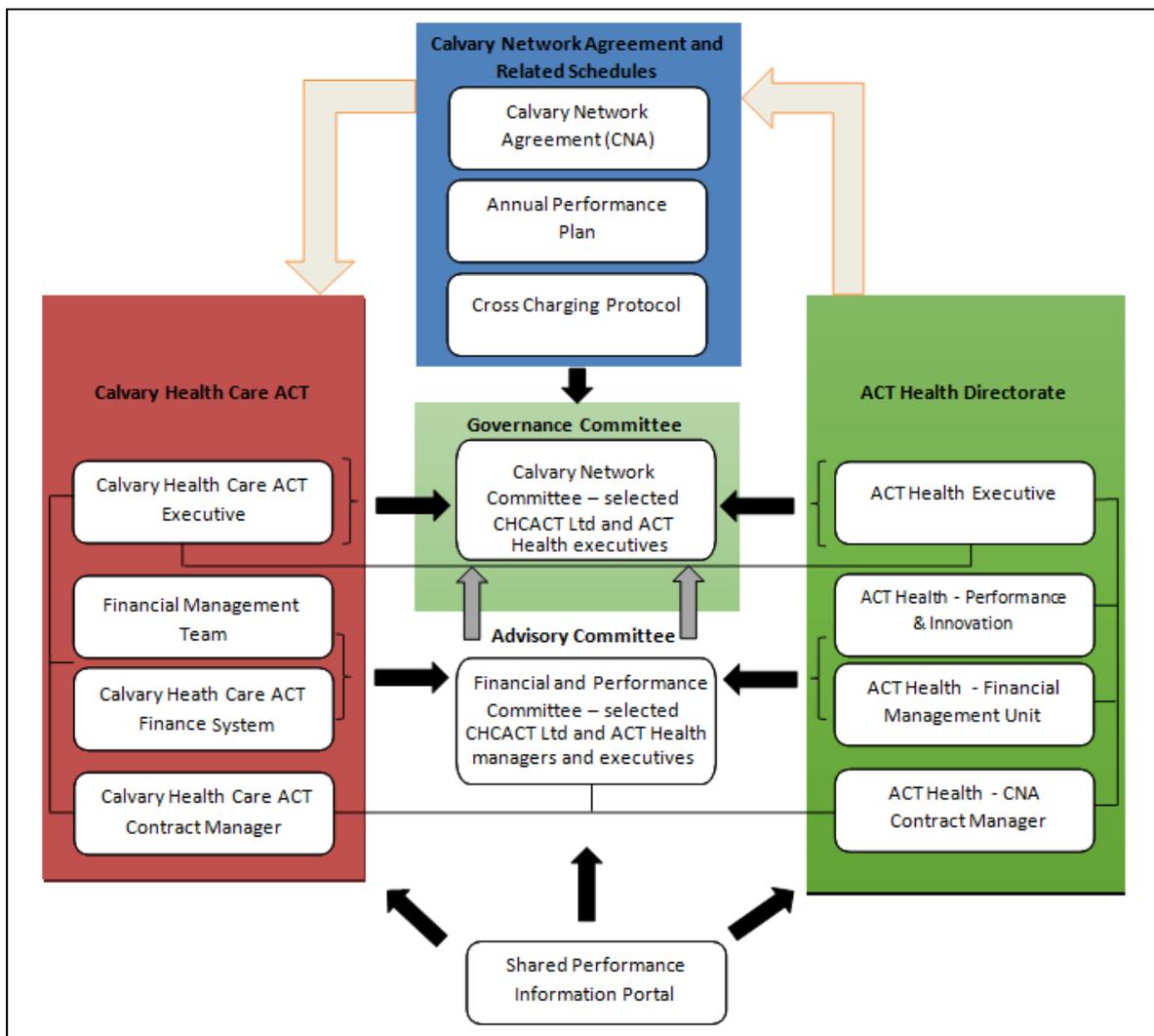
- 2.6 On 7 December 2011, the Calvary Network Agreement was agreed between the Territory and Calvary Health Care ACT Ltd and took effect as of 1 February 2012. The Calvary Network Agreement provides the contractual terms and conditions for the delivery of public hospital services by Calvary Health Care ACT Ltd at Bruce. It is open ended but contains review and termination clauses including:
- ‘the parties agree to review the relationship and obligations under this Agreement’ at least once every ten years or earlier ‘on the occurrence of a major unforeseen event’ (clause 23);
  - Calvary Health Care ACT may terminate the agreement with 30 days written notice if the Territory breaches any provision of the agreement and the breach is not capable of being remedied or, if the breach is capable of being remedied, it is not done so within 30 days of written notice by Calvary Health Care ACT Ltd (clause 27.1); and
  - the Territory may terminate the agreement under a range of circumstances, including for material breaches of certain clauses by Calvary Health Care ACT Ltd (and if the breach is not remedied), if Calvary Health Care ACT Ltd ‘persistently fails to achieve any KPI in a current [Annual Performance Plan]’ provided it has had a reasonable period to remedy any failure to achieve a KPI; or if Calvary Health Care ACT fails to rectify any default notices issued in relation to failures to meet relevant standards and accreditation requirements identified through clinical standards reviews (clause 27.2)

2.7 The governance arrangements associated with the delivery of public hospital services through the Calvary Network Agreement are shown in Figure 2-1. Governance arrangements include:

- key documents, including the Calvary Network Agreement, Annual Performance Plans and Cross-Charging Protocol; and
- governance committees, including the Calvary Network Committee and Finance and Performance Committee.

2.8 Figure 2-1 also shows different administrative areas of Calvary Health Care ACT Ltd and the ACT Health Directorate with respect to the context within which the Calvary Network Agreement operates.

**Figure 2-1 Calvary Network Agreement context**



Source: ACT Audit Office (July 2015)

## Calvary Network Agreement public hospital services

- 2.9 The Calvary Network Agreement facilitates the provision of public hospital services by Calvary Health Care ACT Ltd through:
- *Schedule 1 - Schedule of Services for Public Hospital* of the agreement, which sets out the range and applicable level of services to be provided; and
  - requiring that an Annual Performance Plan be developed to identify activity and performance targets to be delivered each financial year.
- 2.10 The services to be provided as per Calvary Network Agreement *Schedule 1 - Schedule of Services for Public Hospital* are:
- **Clinical Support Services**, including Pathology, Pharmacy, Diagnostic Imaging, Nuclear Medicine, Anaesthetics, Intensive Care, Coronary Care and Operating Suites;
  - **Emergency Medicine**;
  - **Medical Services**, including General Medicine, Cardiology, Dermatology, Endocrinology, Gastroenterology, Haematology-Clinical, HIV I Aids, Immunology, Infectious Diseases, Medical Oncology, Neurology, Renal Medicine, Respiratory Medicine and Rheumatology;
  - **Surgical Services**, including General Surgery, Burns, Thoracic/Cardiothoracic Surgery, Day Surgery, Ear Nose and Throat, Gynaecology, Neurosurgery, Ophthalmology, Orthopaedics, Plastic Surgery, Urology and Vascular Surgery;
  - **Maternal and Child Health Services**, including Obstetrics, Neonatal, minor Paediatric Medicine and minor Paediatric Surgery; and
  - **Integrated Community and Hospital Services**, including Adolescent Health, Adult Mental Health (Inpatient Care), Child and Adolescent Mental Health (Inpatient Care), Child Protection Services, Alcohol and other Drugs Services, Geriatrics, Health Promotion, Palliative Care, Sexual Assault Services, Rehabilitation Services and Older Adult Mental Health (Inpatient Care).
- 2.11 During 2013-14, the ACT Health Directorate's oversight of the Calvary Network Agreement was provided by the Deputy Director-General, Strategy and Performance, with the support of the ACT Health Directorate Performance Information Branch and the ACT Health Directorate Finance Team (refer to Figure 2-1). Most of the executive and many other senior officers of Calvary Health Care ACT Ltd interacted with ACT Health Directorate officers and executives on a frequent basis.

## Other service level agreements

2.12 In addition to services provided under the Calvary Network Agreement, Calvary Health Care ACT Ltd provides additional services under other service level agreements with the ACT Health Directorate. At the time of audit fieldwork in July 2015, these included:

- *Lymphoedema Services Agreement* (in draft);
- *Pathology Services Agreement* (an unsigned agreement, dated 2005);
- *Infectious Diseases Services Agreement* (signed February 2014);
- *Sterilisation Services Agreement* (in draft, dated July 2010); and
- *Junior Medical Officer Services Agreement* (in draft, dated July 2014).

2.13 On 5 November 2015 the ACT Health Directorate provided an update to the Audit Office on the status of these agreements:

- *Lymphoedema Services Agreement*. This agreement was signed in September 2015;
- *Pathology Services Agreement*. This agreement was signed in August 2015;
- *Infectious Diseases Services Agreement*. This agreement was signed in February 2014 but is now due for review;
- *Sterilisation Services Agreement*. This agreement remains in draft;
- *Junior Medical Officer Services Agreement*. This agreement remains in draft.

2.14 There are separate governance and administrative arrangements for the management of these services and agreements within the ACT Health Directorate. For example, while the services to be provided under the Calvary Network Agreement are managed within a defined governance framework, including identified governance committees and reporting protocols (refer to paragraphs 2.17 to 2.25), services provided under these additional service level agreements are managed by different business units within the ACT Health Directorate through different systems, processes and administrative arrangements. ACT Health Directorate officers advised that there has not been a sound understanding across teams of how each is managing their agreements, or what are the various teams' responsibilities.

2.15 In February 2015 the ACT Health Directorate and Calvary Health Care ACT Ltd commenced a review into the relationship and interactions between the various agreements, including any potential impacts on the delivery of services under the Calvary Network Agreement. While the Calvary Network Agreement is the overarching agreement for the delivery of public hospital services by Calvary Health Care ACT Ltd, the Calvary Network Agreement allows for supporting service agreements to be in place. The review focused on the overall governance arrangements in place for all agreements between the ACT Health Directorate and Calvary Health Care ACT Ltd to identify what was working and what was not and to ensure better management and accountability of arrangements that sat outside the Calvary Network Agreement.

- 2.16 The development of the Calvary Network Agreement (December 2011) is significant as it integrates three previous agreements that were considered to be outdated, complex and inadequately understood. While this is a considerable improvement, the ACT Health Directorate has several other agreements with Calvary Health Care ACT Ltd, the management of which merits consideration for integration with the Calvary Network Agreement. Due to there being several governance and administrative arrangements for the various agreements, a risk exists that the public hospital services overall are not being overseen in an effective and efficient manner.

## Governance arrangements

- 2.17 The Calvary Network Agreement defines governance arrangements for the delivery of public hospital services by Calvary Health Care ACT Ltd, which includes:
- mechanisms for determining and adjusting service and funding levels;
  - committee structures and functions; and
  - the relationship of the parties and dispute resolution mechanisms.

## The Calvary Network Committee

- 2.18 Clause 6.2 of the Calvary Network Agreement requires the establishment of a Calvary Network Committee. Clause 6.6 specifies the functions of the Calvary Network Committee, which include to:
- develop the Annual Performance Plan for the delivery of services (refer to paragraphs 2.26 to 2.32);
  - review the delivery of the Calvary Public Hospital services against the Annual Performance Plan and 'determine any action to rectify any deficiencies' as well as the payment of funds by the Territory;
  - assist parties make decisions involving capital expenditure for the Calvary Public Hospital;
  - develop and assist the parties to undertake service planning;
  - identify opportunities to create efficient operations within the public hospital; and
  - manage any compliance or dispute resolution procedures.
- 2.19 The Calvary Network Committee holds quarterly meetings to discuss and address a range of issues associated with the services, including financial and performance reporting. During 2013-14 the Calvary Network Committee was attended by:
- Director-General (ACT Health Directorate)
  - Chief Executive Officer (Little Company of Mary Health Care Ltd)
  - Deputy Director-General Strategy and Corporate (ACT Health Directorate)

- Executive Director, Business Intelligence Performance Information (ACT Health Directorate)
- National Director Public Hospitals (Little Company of Mary Health Care Ltd)
- Chief Executive Officer (Calvary Health Care ACT Ltd)
- Business Manager (Calvary Health Care ACT Ltd)

2.20 Secretariat services in 2013-14 were provided by the ACT Health Directorate, but since August 2014 these have been shared between the Directorate and Calvary Health Care ACT Ltd.

### Finance and Performance Committee

2.21 A Finance and Performance Committee is a working group which has been established for the purpose of reviewing the delivery of Annual Performance Plan activity, including financial oversight. The Finance and Performance Committee is not a requirement of, or specifically provided for, in the Calvary Network Agreement. However, clause 6.13 of the Calvary Network Agreement states:

Nothing in this clause will prevent Calvary from participating in other committees (whether network committees or not) from time to time or impose any obligations on Calvary in its involvement in those other committees.

The Territory must invite Calvary to participate in other meetings relevant to the ACT Health network and Calvary's role as a Network Service Provider.

2.22 Although the Finance and Performance Committee is not specifically provided for in the Calvary Network Agreement, it has been referenced in Annual Performance Plans as having a role with respect to the review of financial and performance activity. This includes considering options and actions of material over/under performance against the Performance Plan.

2.23 The Finance and Performance Committee is able to escalate issues to the Calvary Network Committee when necessary. During 2013-14 the Finance and Performance Committee was attended by:

- Deputy Director-General Strategy and Corporate (ACT Health Directorate)
- Executive Director, Business Intelligence Performance Information (ACT Health Directorate)
- Senior Manager, Business Intelligence Performance Information (ACT Health Directorate)
- Chief Finance Officer (ACT Health Directorate)
- Chief Executive Officer (Calvary Health Care ACT Ltd)
- Director of Medical Services (Calvary Health Care ACT Ltd)
- Chief Financial Officer (Calvary Health Care ACT Ltd)

- Director of Nursing (Calvary Health Care ACT Ltd)
- Business Manager (Calvary Health Care ACT Ltd)

2.24 Secretariat services in 2013-14 were provided by the ACT Health Directorate, but since August 2014 these have been shared between the Directorate and Calvary Health Care ACT Ltd.

2.25 Other committees support the work of the Calvary Network Committee, including a Calvary Health Infrastructure Program Executive Steering Committee (formerly known as the Project Control Group) and an ACT Health Directorate Business Information Group. These committees are advisory and do not have decision making powers.

### Annual Performance Plans

2.26 Clauses in the Calvary Network Agreement establish mechanisms for determining and adjusting service and funding levels. A key mechanism by which this is achieved is clause 13.2 which requires that for each financial year Calvary Health Care ACT Ltd, in consultation with the Calvary Network Committee, prepares an Annual Performance Plan for the upcoming financial year and submits it to the 'Territory' i.e. the ACT Health Directorate.

2.27 The Annual Performance Plan identifies:

- key principles to guide the delivery of public hospital services by Calvary Health Care ACT Ltd;
- a broad description of the public hospital services to be provided;
- performance and activity targets; and
- funding arrangements.

### *Preparing and finalising the Annual Performance Plans*

2.28 Under the Calvary Network Agreement timeframes are established for negotiating and finalising the Annual Performance Plan prior to the start of the financial year. Clause 13.2 of the Calvary Network Agreement specifies that:

No less than 3 calendar months prior to the commencement of the Financial Year that Calvary in consultation with the Calvary Network Committee will prepare the Performance Plan for the upcoming Financial Year and submit that Performance Plan to the Territory...

2.29 This clause also details the specific steps required to be achieved in agreeing the Annual Performance Plan, as well as processes (and timeframes) to be followed in the event that the parties disagree.

- 2.30 The Annual Performance Plan for 2013-14 was developed and finalised by 5 June 2013, the Plan for 2014-15 finalised by 31 July 2014 and, as at 27 October 2015, the Plan for 2015-16 was in the process of being signed by both parties to the agreement. Delays in the development and finalisation of Annual Performance Plans present a risk to the effective management of Calvary Health Care ACT Ltd's delivery of public hospital services.
- 2.31 The 2008 Audit Office *Management of Calvary Hospital Agreements* performance audit reported a similar finding; 'performance plans are agreed late in the year to which they apply'.
- 2.32 The ACT Health Directorate advises that while there have been delays in the final signing of the Annual Performance Plans, and that this has been a regular occurrence over the years, a final agreed position for each year cannot be finalised until the ACT Budget is passed as the passage of the budget has implications on the funding available to provide additional services at Calvary Public Hospital. Furthermore, once the ACT Budget is passed, there is a further process to be undertaken for the ACT Health Directorate to negotiate activity levels and funding with Calvary Health Care ACT Ltd and for the Annual Performance Plan to be endorsed by the Little Company of Mary Health Care Ltd Board. The ACT Health Directorate also advised that the Calvary Public Hospital is one of only two hospitals in the ACT and that Calvary Health Care ACT is expected to continue to perform services at Calvary Public Hospital and undertake activity at the previous year's level until the next agreement is signed. While there may be comfort that services will continue to be provided at Calvary Public Hospital, the late sign-off and agreement of Annual Performance Plans creates uncertainty in activity levels and funding to be provided.

### Communication and information coordination

- 2.33 Communication and information coordination requirements are referred to in various clauses in the Calvary Network Agreement and Annual Performance Plans. For example, the 2013-14 and 2014-15 Annual Performance Plans outlined communication and reporting requirements and protocols relating to various processes, including:
- financial and performance reporting;
  - amendments to financial and performance requirements; and
  - re-negotiation of funding.
- 2.34 During 2013-14 however, there were multiple points of contact between the ACT Health Directorate and Calvary Health Care ACT Ltd for financial, performance and other service delivery and contractual matters. For example, communication on performance and financial matters, including possible re-negotiation of activity targets and funding amounts, occurred through a variety of mechanisms across a range of people.

- 2.35 Within the ACT Health Directorate, communication and discussion in relation to performance and financial issues was undertaken by both the Performance Information Branch and ACT Health Directorate Finance Team. There was no identified contract manager or single point of contact within the ACT Health Directorate during 2013-14. The ACT Health Directorate appointed a contract manager to manage the relationship with Calvary Health Care ACT Ltd for the delivery of Calvary Public Hospital services in January 2015.
- 2.36 Since May 2012 Calvary Health Care ACT Ltd has had an appointed Calvary Network Agreement Contract Manager. Although ongoing communication between stakeholders in the ACT Health Directorate and Calvary Health Care ACT Ltd is expected and should be encouraged, this communication was not always coordinated through agreed points of contact or in accordance with agreed protocols outlined in the Calvary Network Agreement and Annual Performance Plan. Numerous examples were cited by both the ACT Health Directorate and Calvary Health Care ACT Ltd of one-on-one discussions that occurred and these were cited as means by which important information was conveyed and decisions made. Correspondence reviewed indicated some adjustments were made on the basis of discussions outside of the Finance and Performance Committee (and Calvary Network Committee).
- 2.37 The Calvary Network Committee and Finance and Performance Committee were regularly held and attended during 2013-14 and meeting records were prepared. However, meeting records were not formally accepted or signed by either Calvary Health Care ACT Ltd or the ACT Health Directorate. The lack of a formal record presents a significant control risk.
- 2.38 In 2013-14 communication between the ACT Health Directorate and Calvary Health Care ACT Ltd was inadequate to effectively implement the Calvary Network Agreement. There was a lack of adherence to agreed communication protocols. In particular, some decisions to adjust funding occurred outside of agreed governance arrangements and the agreed process outlined in the Calvary Network Agreement and Annual Performance Plans.
- 2.39 In 2014-15 the ACT Health Directorate Performance Information Branch, the ACT Health Directorate Finance Team and Calvary Health Care ACT Ltd implemented protocols for the logging and recording of correspondence between the two parties to better control communications associated with the operation of the Calvary Network Agreement.

### **ACT Health Directorate Risk Management**

- 2.40 ACT Government Procurement Policy Circular PC24 *Risk Management* and the ACT Government's *Guiding Partnerships - Funding Managers' Guide* emphasise the importance of applying effective risk management techniques when undertaking ACT Government procurement for funding community services. In relation to managing risks associated with the funding of community organisations, the ACT Government's *Guiding Partnerships - Funding Managers' Guide* states 'ACT Government must identify, analyse and evaluate any likely risks and implement sound risk management strategies to mitigate them'.

- 2.41 The ACT Health Directorate has not documented its consideration of risks associated with the purchase and management of public hospital services from Calvary Health Care ACT Ltd under the Calvary Network Agreement. As no specific risk assessment has been undertaken there is a risk that the ACT Health Directorate is not effectively managing the Agreement.
- 2.42 The 2008 Audit Office *Management of Calvary Hospital Agreements* performance audit reported a similar finding; 'Although ACT Health has an overarching Risk Management Framework and Policy covering its functions, it has not developed a specific risk management plan for the management of the agreements with [Calvary Health Care ACT Ltd]'.

### RECOMMENDATION 3 ACT HEALTH DIRECTORATE RISK MANAGEMENT

The ACT Health Directorate should document its consideration and management of risks associated with the purchase of public hospital services from Calvary Health Care ACT Ltd, including conducting a risk assessment and documenting the management of identified risks.

## Performance Management

- 2.43 Annual Performance Plans include performance and activity targets for the delivery of public hospital services by Calvary Health Care ACT Ltd. The Annual Performance Plans include:
- activity measures, listing expected activities to be performed at the Calvary Public Hospital and the expected number of those activities;
  - Key Performance Indicators; and
  - Management Performance and other measures.

## Activity measures

- 2.44 Table 2-1 shows the activity measures in Annual Performance Plans. Where there are blanks shaded, there are no measures.

**Table 2-1 Activity measures from Annual Performance Plans (2012-13 to 2014-15) and Draft Annual Performance Plan 2015-16**

2012-13	2013-14	2014-15	2015-16
Elective surgery operations	Elective surgery operations	Elective Surgery Procedures - Base Procedures - Additional ENT Procedures	
Palliative care bed days	Palliative care bed days		
Sub-acute service bed days	Sub-acute service bed days		
Older-persons' mental health unit bed days	Older-persons' mental health unit bed days		
Inpatient short-stay unit bed days	Inpatient short-stay unit bed days		
Hospital-in-the-home bed days	Hospital-in-the-home bed days		
Intensive care unit bed days	Intensive care unit bed days		
Zita-Mary unit service events	Zita-Mary unit service events		
Elective endoscopy services	Elective endoscopy services		
Total cost-weighted inpatient separations	Total cost-weighted inpatient separations		
Number of births	Number of births	Births	
		Total Cost Weighted Separations	Total Cost Weighted Separations

Source: ACT Audit Office, based on information in Annual Performance Plans 2012-13 to 2015-16

2.45 The number of activity measures has been reduced in the Annual Performance Plans over time, for example:

- in 2012-13 and 2013-14 there were eleven different activity measures;
- in 2014-15 these were reduced to three (elective surgery procedures, cost-weighted separations and number of births); and
- the Draft 2015-16 Annual Performance Plan identifies one activity measure (cost weighted separations).

2.46 The ACT Health Directorate advised that cost weighted separations, which is a consolidated measure of all hospital activity, weighted according to complexity, is a stronger measure of activity. Similarly, the Little Company of Mary Health Care Ltd advised that a high number of activity measures can result in dysfunctional effort and poor outcomes and that fewer and more-focused activity measures can target resources and improve outcomes.

## Key Performance Indicators, Management Performance and other measures

2.47 Table 2-2 shows the Key Performance Indicators and Management Performance Measures in Annual Performance Plans. Where there are blanks shaded, there are no indicators or measures.

**Table 2-2 Key Performance Indicators and Management Performance Measures in Annual Performance Plans (2012-13 to 2014-15) and Draft Annual Performance Plan 2015-16**

2012-13	2013-14	2014-15	2015-16
<b>Key Performance Indicators</b>			
<p><i>National Elective Surgery Target</i></p> <p>Proportion of elective surgery patients admitted within standard timeframes</p> <ul style="list-style-type: none"> <li>• Category one</li> <li>• Category two</li> <li>• Category three</li> </ul>	<p><i>National Elective Surgery Target</i></p> <p>Proportion of elective surgery patients admitted within standard timeframes</p> <ul style="list-style-type: none"> <li>• Category one</li> <li>• Category two</li> <li>• Category three</li> </ul>		
	<p><i>National Elective Surgery Target (Part 2a)</i></p> <ul style="list-style-type: none"> <li>• 10% of long wait elective surgery patients at 31 Dec 2012 removed from the list by 31 Dec 2013</li> </ul>		
	<p><i>National Elective Surgery Target (Part 2b)</i></p> <ul style="list-style-type: none"> <li>• Category one average overdue days waiting at 31December2013</li> <li>• Category two average overdue days waiting at 31 December 2013</li> <li>• Category three average overdue days waiting at 31 December 2013</li> </ul>		
<p><i>National Emergency Access Target (NEAT)</i></p> <p>Proportion of emergency department presentations with a length of stay of less than four hours</p>	<p><i>National Emergency Access Target (NEAT)</i></p> <p>Proportion of emergency department presentations with a length of stay of less than four hours</p>		
		<p>Elective Procedures performed:</p> <ul style="list-style-type: none"> <li>• Base Procedures</li> <li>• Additional ENT</li> </ul>	<ul style="list-style-type: none"> <li>• Elective Surgery Procedures: <ul style="list-style-type: none"> <li>○ Orthopaedic Joint replacements</li> </ul> </li> </ul>

2012-13	2013-14	2014-15	2015-16
		Procedures	<ul style="list-style-type: none"> <li>○ Urology</li> <li>○ Ophthalmology</li> <li>○ Various other Specialties</li> <li>• Elective Endoscopy Procedures</li> <li>• Births</li> </ul>
		Elective Endoscopy procedures	
<b>Management Performance Measures</b>			
Proportion of emergency department presentations who receive treatment within standard waiting times <ul style="list-style-type: none"> <li>• Category one</li> <li>• Category two</li> <li>• Category three</li> <li>• Category four</li> <li>• Category five</li> </ul>	Proportion of emergency department presentations who receive treatment within standard waiting times <ul style="list-style-type: none"> <li>• Category one</li> <li>• Category two</li> <li>• Category three</li> <li>• Category four</li> <li>• Category five</li> </ul>	Proportion of Emergency Department presentations who receive treatment within standard waiting times <ul style="list-style-type: none"> <li>• Category one</li> <li>• Category two</li> <li>• Category three</li> <li>• Category four</li> <li>• Category five</li> <li>• Proportion of presentations seen within 4 (four) hours or less</li> </ul>	Proportion of Emergency Department presentations who receive treatment within standard waiting times <ul style="list-style-type: none"> <li>• Category one</li> <li>• Category two</li> <li>• Category three</li> <li>• Category four</li> <li>• Category five</li> <li>• Proportion of presentations seen within four (4) hours or less</li> </ul>
10% of long wait elective surgery patients at 31 Dec 2011 removed from the list by 31 Dec 2012			
Elective endoscopy patients admitted for treatment within standard waiting times <ul style="list-style-type: none"> <li>• Category one</li> <li>• Category two</li> <li>• Category three</li> </ul>	Elective endoscopy patients admitted for treatment within standard waiting times <ul style="list-style-type: none"> <li>• Category one</li> <li>• Category two</li> <li>• Category three</li> </ul>	Elective endoscopy patients admitted for treatment within standard waiting times <ul style="list-style-type: none"> <li>• Category one</li> <li>• Category two</li> <li>• Category three</li> </ul>	Elective endoscopy patients admitted for treatment within standard waiting times <ul style="list-style-type: none"> <li>• Category one</li> <li>• Category two</li> <li>• Category three</li> </ul>
	Access Block-The proportion of patients admitted to an inpatient bed via the emergency department who have a total length of stay less than 4 hours		
			Elective surgery patients admitted for treatment within standard waiting times <ul style="list-style-type: none"> <li>• Category one</li> <li>• Category two</li> <li>• Category three</li> </ul>

2012-13	2013-14	2014-15	2015-16
<b>Quality and Safety</b>			
Unplanned return to hospital within 28 days	Unplanned return to hospital within 28 days	Unplanned return to hospital within 28 days	Unplanned return to hospital within 28 days
Unplanned return to the operating theatre	Unplanned return to the operating theatre	Unplanned return to the operating theatre	Unplanned return to the operating theatre
Healthcare associated staphylococcus aureus bacteraemia	Healthcare associated staphylococcus aureus bacteraemia	Healthcare associated staphylococcus aureus bacteraemia	Healthcare associated staphylococcus aureus bacteraemia
Rate of community follow up within seven days of discharge from a mental health inpatient facility			
Hand hygiene compliance rate	Hand hygiene compliance rate	Hand hygiene compliance rate	Hand hygiene compliance rate
<b>Finance</b>			
Achieve agreed financial position (EBITDA)	Achieve agreed financial position (EBITDA)	Achieve agreed financial position (EBITDA)	
<b>Quality and Clinical Governance</b>			
			Accreditations to be maintained: <ul style="list-style-type: none"> <li>Australian Council on Healthcare Standards</li> </ul>
			Measures of effective worker and facility safety: <ul style="list-style-type: none"> <li>Lost Time Injury Frequency Rate (LTIFR)</li> <li>Lost Time Injury Severity Rates (LTISR)</li> </ul>

Source: ACT Audit Office, based on information in Annual Performance Plans 2012-13 to 2015-16

2.48 Key Performance Indicators and Management Performance Measures between the 2012-13, 2013-14 and 2014-15 Annual Performance Plans and the Draft 2015-16 Annual Performance Plan have varied considerably:

- Key Performance Indicators in Annual Performance Plans between 2012-13 to 2015-16 included targets associated with elective surgery procedures. For 2012-13 and 2013-14, this was done with reference to the National Elective Surgery Target (NEST). In 2014-15 and 2015-16 there were no National Elective Surgery Target (NEST) related Key Performances Indicators or targets established between the parties;
- Key Performance Indicators provided in Annual Performance Plans for 2012-13 and 2013-14 included National Emergency Access Target (NEAT) indicators. In 2014-15 and 2015-16 there were no National Emergency Access Target (NEAT) related Key Performances Indicators and targets were established between the parties; and

- a Key Performance Indicator in the 2012-13 to 2014-15 Annual Performance Plans has been 'achieve agreed financial position (EBITDA)'. This has been removed as a Key Performance Indicator for the Draft 2015-16 Annual Performance Plan.

### Provision for additional funding or recall of funding

2.49 Clause 13.5 of the Calvary Network Agreement provides for sanctions associated with issues of non-performance, including *inter alia*:

a) If Calvary fails to achieve a KPI or otherwise fails to comply with any material obligation under this Agreement or a Performance Plan, the Territory must give written notice to Calvary of the breach (KPI Notice) and give to Calvary at least 7 days to rectify the breach.

b) If Calvary fails to rectify the breach contained in the KPI Notice within the time specified in the KPI Notice or such extended time as Calvary reasonably requests, the Territory may reduce the amounts payable to Calvary under this Agreement in accordance with the relevant Performance Plan.

c) The breaches listed in the relevant Performance Plan are the only breaches where the Territory can reduce the amounts payable to Calvary.

2.50 An analysis of Annual Performance Plans since 2013-14 shows:

- the 2012-13 and 2013-14 Annual Performance Plans provide that results above and below a two per cent tolerance of identified targets for specified activity measures may be subject to additional funding or a recall of funding subject to further negotiation. This was in relation to cost weighted separations and elective surgery removals;
- the 2014-15 Annual Performance Plan did not specify any activity measure where additional funding or a recall of funding would be provided in the event that activity measure targets were exceeded or not met; and
- the Draft 2015-16 Annual Performance Plan contains a similar provision to the 2012-13 and 2013-14 Annual Performance Plans and allows for additional funding or recall of funding, subject to negotiation, if results are outside the two per cent tolerance. The only activity measure target that this is assessed against is cost weighted separations.

2.51 The ACT Health Directorate has had a varying ability to recall or reward extra funding for under or over-performance in relation to activities delivered and performance expectations under the Annual Performance Plans. The option for the recall (or extra reward) of funding was only available in relation to two activity measure targets in 2012-13 and 2013-14 (cost weighted separations and elective surgery removals) and one activity measure target in 2015-16 (cost weighted separations). The recall (or extra reward) of funding option was not provided for in 2014-15. This removed one important mechanism for triggering negotiation about the adjustment of funding levels.

- 2.52 The Audit Office did not review Calvary Public Hospital's performance in relation to these recall or additional reward measures in all three years (2012-13 to 2014-15). However the Audit Office did review performance in relation to these recall or additional reward measures in 2013-14.
- 2.53 A target of 25 634 cost-weighted inpatient separations was established in the 2013-14 Annual Performance Plan for Calvary Public Hospital. At the end of the year 24 884 cost-weighted inpatient separations had been achieved. This three per cent under-achievement against the activity measure target was outside the two per cent tolerance established in section 3e of the 2013-14 Annual Performance Plan. The ACT Health Directorate did not issue a breach notice, nor was the Audit Office able to identify any record of negotiations in relation to the under-achievement against the target and the lack of breach notice. The ACT Health Directorate has not issued any breach notices to Calvary Health Care ACT Ltd under the Calvary Network Agreement, notwithstanding that there has been a valid opportunity do so.
- 2.54 In relation to the cost-weighted inpatient separations variance, ACT Health Directorate officers advised that this variation was due in part to changes to variables used in the calculations that had not adequately been considered in setting the target. This information was verbally provided during the audit but there is no formal record of the acknowledgement of this explanation for this variation by either Calvary Health Care ACT Ltd or ACT Health Directorate officers at the time.
- 2.55 In relation to the use of breach notices ACT Health Directorate officers advised that:
- ... in the period when the underperformance occurred it chose to take an informal approach in seeking for Calvary Health Care ACT Ltd to rectify performance issues, rather than issuing breach notices, or simply to reduce funding as was the case at the end of 2013-14 due to lower births than agreed.
- 2.56 Although the ACT Health Directorate has not issued any breach notices, there have been instances where funding has been revised without the use of the Calvary Network Agreement's breach notice provisions. For example, in 2013-14 when an agreed births target was not met the additional funding associated with this target was returned to the ACT Health Directorate. Additionally, in the same year, the full level of elective surgery services was not achieved and funding was reallocated to the following year.
- 2.57 The ACT Health Directorate advised that, within a two-hospital system that exists in the ACT, Calvary Health Care ACT Ltd is in a unique position, compared to other service providers. Furthermore, the ACT Health Directorate noted that the existence of a large number of performance metrics that might attract funding incentives or funding recalls would make it more difficult to effectively manage the delivery of public hospital services than a single global activity target (albeit supported by a range of metrics that are regularly monitored). Accordingly, the ACT Health Directorate advised that this was the reasoning behind moving from a large number of performance measures attached to specific funding, to a global target for activity and funding. Notwithstanding this, the ACT Health Directorate advised:

... performance below global measures needs to be managed in a way that also ensures that services will continue to be provided into the future. [Calvary Health Care ACT Ltd] cannot operate at a loss, and the ACT public needs [Calvary Health Care ACT Ltd] to continue to provide services which limits the ability of ACT Health to breach the hospital for non-performance, as this could result in a reduction in services to the community. Instead, the delivery of services at [Calvary Health Care ACT Ltd] needs to be seen as a whole and in line with the health needs of the ACT and region, and negotiations about changes in activity levels needs to take this into consideration.

In addition, most costs for hospital services are fixed which make it difficult to remove costs for services. As an example, an ICU is staffed to provide a certain level of service. While there is the capacity for some changes in staff rosters to meet demand, there is also a requirement for a set level of staff to manage unplanned demand for these essential services.

- 2.58 While provisions exist in the Calvary Network Agreement that enable performance variances and difficulties with funding principles to be formally acknowledged and then subject to an agreed framework for their resolution, these provisions have been underused in favour of less formal discussion and settlement. This presents a risk of uncertainty over what has been agreed, a lack of clarity in records upon which others rely and difficulties in elevating matters to Calvary Network Committee members.

#### *Timeframe available for recall of funding*

- 2.59 While clause 13.5(b) allows for the ACT Health Directorate to recall funding under certain conditions for under performance, clause 13.5(d) provides that the option of reducing funding is available to the Territory during the period of an Interim Funding Model for a maximum of three years from the commencement of the agreement, unless:
- an activity-based funding model has been implemented, as required under clause 9.1(a); and
  - the Territory has provided Calvary Health Care ACT Ltd with the clinical costing system as required under clause 9.4(a).
- 2.60 Neither an activity-based funding model or a clinical costing system had been agreed or implemented by 1 February 2015 (three years after the effective commencement date of the agreement). However, in an exchange of letters between the Chief Executive Officer Calvary Health Care ACT Ltd (28 August 2015) and the Deputy Director-General ACT Health Directorate (9 September 2015) agreement was reached to extend the use of the Interim Funding Model for 2015-16 and to consider the suitability of a new funding model before the beginning of the 2016-17 year.
- 2.61 A period of seven months (between 1 February 2015 and 9 September 2015) elapsed before the Territory (the ACT Health Directorate) and Calvary Health Care ACT Ltd agreed to continue with the Interim Funding Model. This created uncertainty over how specific clauses, for example, clause 13.5(d) that relates to the Territory's ability to recall funding, operate.

## Financial and Performance Monitoring

2.62 Clause 14.1 of the Calvary Network Agreement requires Calvary Health Care ACT Ltd to provide monthly financial reports and any other information reasonably required by the Calvary Network Committee. Financial and performance reporting is a standing agenda item at both the Calvary Network Committee and Calvary Finance and Performance Committee meetings, although each committee provides a different level of focus.

### Performance Monitoring

2.63 During 2013-14 the Finance and Performance Committee was presented with a *Calvary Public Hospital Performance Report* for each of its monthly meetings for the financial year. This report outlined year-to-date progress against activity measure targets and Key Performance Indicators as outlined in the Annual Performance Plan.

2.64 The *Calvary Public Hospital Performance Report* was produced by Calvary Health Care ACT Ltd from data provided by the shared data warehouse between the ACT Health Directorate and Calvary Health Care ACT Ltd. The quality of performance reporting has improved since July 2013, from which point both parties have had access to the same shared data warehouse. A consistent approach to performance reporting was also developed and agreed upon by the ACT Health Directorate and Calvary Health Care ACT Ltd at the same time.

2.65 The ACT Health Directorate and Calvary Health Care ACT Ltd have also undertaken an exercise to consistently define the data that supports activity measures. The outcome of this exercise has been the *Performance Data Definitions Framework*, which is documented at Annexure 1 of the 2014-15 Annual Performance Plan. This joint visibility has resulted in both parties having transparency over the reporting of performance information through the shared data warehouse, and in agreement between both parties over reporting against performance targets from month to month.

### Financial Monitoring

2.66 While the Calvary Network Agreement provides Calvary Health Care ACT Ltd with autonomy for the day-to-day operational management of public hospital services at Bruce, the ACT Government and ACT community, through the ACT Health Directorate, have a substantial interest in securing financial transparency and accountability in the delivery public hospital services since there is provision in the Calvary Network Agreement for negotiation over:

- future core funding levels based on current funding levels (clause 8.1 (a) (ii));
- additional funding for additional activity or a reduction of funding for underperformance (clause 8.2 (a) and as then set out in annual performance plans) and additional funding for core activity (clauses 7.4 and 8.3); and

- recovery of funding for creating excess operating surpluses (clause 8.2 (a) and as then set out in annual performance plans).
- 2.67 The absence of sufficient financial oversight by the ACT Health Directorate presents a risk that these clauses are difficult or impossible to negotiate based on evidence.
- 2.68 Clause 14.1 of the Calvary Network Agreement requires Calvary Health Care ACT Ltd to provide to the ACT Health Directorate:
- unaudited monthly financial reports;
  - monthly reports on cross charging; and
  - externally audited annual reports for the Public Hospital.
- 2.69 The Annual Performance Plans restate these requirements, and identify the Finance and Performance Committee as the forum where the review of this financial information should take place. During 2013-14 the Calvary Health Care ACT Ltd Finance Team prepared a monthly *Finance & Performance Committee Report* for presentation to the Finance and Performance Committee. The report was in Excel spread sheet format and included profit and loss, balance sheet and cash flow information.
- 2.70 There are no ACT Health Directorate finance officers co-located with the Calvary Health Care ACT Ltd Finance Team. The Calvary Network Agreement does not make provision for an open-book accounting approach and the ACT Health Directorate is not able to review the financial information directly within the Little Company of Mary Health Care Ltd's financial management system (Finance One). The ACT Health Directorate therefore relies on the Calvary Health Care ACT Ltd Financial Team's monthly reports to provide a 'true and fair' financial position for Calvary Public Hospital. The ACT Health Directorate has no alternative means to validate the accuracy of the financial information provided to the Finance and Performance Committee.
- 2.71 Within Calvary Health Care ACT Ltd, during 2013-14 there were no internal quality assurance or formal sign-off procedures undertaken for this information, prior to its submission to committees.
- 2.72 The ACT Health Directorate relied on financial reports to the Finance and Performance Committee to obtain an understanding of the financial position of the Calvary Public Hospital. Monthly financial reports for the Finance and Performance Committee throughout 2013-14 provided operating statements and balance sheet information as required. However, the reports were inadequate as they only provided a very basic explanation narrative with respect to financial performance. For example the February 2014 report noted that 'personnel expenses were in line with the activity' but did not explain the \$4.011 million variance of actual employee expenses (year-to-date) versus forecast. Minutes of the Finance and Performance Committee record committee members requesting greater detail be included in the explanation narrative.

### *EBITDA reporting*

- 2.73 The 2012-13, 2013-14 and 2014-15 Annual Performance Plans identify a single financial Key Performance Indicator of 'achieve agreed financial position (EBITDA) [earnings before interest, taxes, depreciation, and amortisation] - within 1%'. The 2015-16 Annual Performance Plan does not include a similar Key Performance Indicator relating to EBITDA, but otherwise states 'It is agreed that Calvary shall achieve the agreed financial position ... EBITDA'.
- 2.74 Operating EBITDA is an indicator of an organisation's profitability. It can be a useful financial indicator to review the matching of revenue to expenditure expectations, including for not-for-profit entities. Operating EBITDA, however, needs to be considered in the context of other financial information, including performance against budgeted revenue. This is particularly important for Calvary Health Care ACT Ltd, as a key component of budgeted revenue is grant funding approved by the ACT Government with approved funding being subject to change depending on activity levels and other negotiations with the ACT Health Directorate.
- 2.75 A single financial Key Performance Indicator of EBITDA (within one per cent) as provided for by Annual Performance Plans, was the overriding key focus for monitoring financial performance in 2013-14 of public hospital services provided by Calvary Health Care ACT Ltd. Monthly reports prepared for the Finance and Performance Committee, the Calvary Network Committee and the Little Company of Mary health Care Ltd executive focused on EBITDA, and did not adequately explain how expenditure and revenues independently were tracking against initially agreed and revised funding levels.

### *External audit*

- 2.76 Clause 14.1(a) of the Calvary Network Agreement provides that:
- Calvary must provide the Territory with externally audited annual reports for the Public Hospital, which include balance sheets, operating statements and cash flow statements.
- 2.77 Annual Performance Plans between 2012-13 and 2015-16 similarly restate the requirement that 'Calvary will provide externally audited annual reports for the Public Hospital'.
- 2.78 Externally audited annual financial reports were not provided to the ACT Health Directorate by Calvary Health Care ACT Ltd for the Calvary Public Hospital for the financial years 2012-13 and 2013-14. While Calvary Health Care ACT Ltd prepared and provided an externally audited consolidated financial report covering both the Calvary Public Hospital and Calvary Private Hospital, a separate report had not been produced for the Calvary Public Hospital. Clause 14.1(a) of the Calvary Network Agreement was not met. As a result, there was a lower level of external assurance with respect to Calvary Public Hospital financial statements than that required by the Calvary Network Agreement, which is of particular importance for the reporting of Operating EBITDA, a primary

financial performance measure specified in Annual Performance Plans (2012-13 to 2014-15).

- 2.79 The 2008 Audit Office *Management of Calvary Hospital Agreements* performance audit reported a similar finding; ‘separate audited accounts of Calvary Private and Calvary Public [hospitals] were not provided annually to ACT Health’ as required under the 1979 Supplementary Agreement.
- 2.80 For the 2014-15 financial year, Calvary Health Care ACT Ltd provided the ACT Health Directorate with audited accounts for the organisation (covering both the Calvary Public Hospital and Calvary Private Hospital) and a ‘reasonable assurance’ report that included a set of extraction accounts for the Calvary Public Hospital that were reviewed by the external auditors. The Little Company of Mary Health Care Ltd has indicated that the 2014-15 approach addresses the intent of the Calvary Network Agreement. This needs to be clarified with the ACT Health Directorate.

#### RECOMMENDATION 4 EXTERNAL ANNUAL FINANCIAL AUDIT OF CALVARY PUBLIC HOSPITAL

Calvary Health Care ACT Ltd should seek written confirmation from the ACT Health Directorate that the reporting of the external audit of 2014-2015 Calvary Public Hospital’s financial reports is adequate for the purposes of clause 14.1 (a) of the Calvary Network Agreement, which requires the provision of externally audited annual reports for the public hospital to the ACT Government.

## Framework for purchasing public health services

- 2.81 The Council of Australian Governments agreed to structural reforms to the organisation, funding and delivery of health care, and new financial and governance arrangements for Australian public hospital services in 2011. One such reform is the National Health Reform Agreement, entered into by all states, territories and the Commonwealth in August 2011. The agreement states:

The objective of this Agreement is to improve health outcomes for all Australians and the sustainability of the Australian health system.

This Agreement sets out the architecture of National Health Reform, which will deliver major structural reforms to establish the foundations of Australia’s future health system.

In particular, this Agreement provides for more sustainable funding arrangements for Australia’s health system.

### National Health Reform Agreement (2011)

- 2.82 The National Health Reform Agreement allowed for Commonwealth Government and ACT Government funding for public hospital services of the ACT Local Hospital Network (comprising the Canberra Hospital, Calvary Public Hospital (including Clare Holland House)

and Queen Elizabeth II Family Centre) to be progressively determined through an activity-based funding model from 2012-13. The total 'Activity Based Funding Pool' for the ACT Local Hospital Network increased from \$576 million in 2012-13 to \$818 million in 2013-14.<sup>5</sup>

- 2.83 While funding from the Commonwealth Government to territory and state governments was progressively becoming activity based, the National Health Reform Agreement also recognised that some hospital services may be 'better funded through block grants, including relevant services in rural and regional communities' (National Health Reform Agreement clause A1(c)).
- 2.84 The ACT Government initially chose to fund the individual hospitals within the ACT Local Hospital Network differently from the Commonwealth funding model, i.e. not on an activity basis. However, between July 2014 and June 2017, funding for the ACT's public hospitals was to be calculated using the activity-based funding model agreed to in the National Health Reform Agreement.
- 2.85 As part of its May 2014 Budget the Commonwealth Government announced<sup>6</sup> its intention to terminate the funding model established in the National Health Reform Agreement in July 2017 in favour of a funding model linked to movements in the consumer price index (CPI) and population growth. This is essentially a return to the funding model that was in place prior to the 2011 National Health Reform Agreement.

### Funding model for Calvary Public Hospital services

- 2.86 The 2011 Calvary Network Agreement was negotiated and agreed with reference to developments in Commonwealth health funding arrangements at the time, including the 2011 National Health Reform Agreement. Since Commonwealth funding arrangements may change during the life of the agreement, clause 7.3 of the Calvary Network Agreement has a provision to accommodate this, which allows for the parties:

... to adjust the funding model to ensure consistency with the Commonwealth funding model [through an Adjustment Notice].

### Activity-based funding model

- 2.87 Clause 9 of the Calvary Network Agreement provides for the implementation of an activity-based funding model within three years of the agreement's commencement date of 1 February 2012. Clause 9.1 states:

Within 3 years ... the parties must agree on and implement the Funding Model for the Public Hospital, which must include the following key features:

- (a) payment is made on an activity-based funding model in accordance with the agreed Performance Plan for that year;

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<sup>5</sup> ACT Local Hospital Network Directorate reports, June 2013 and June 2014

<sup>6</sup> Budget Review 2014-15, Parliament of Australia, Department of Parliamentary Services Research paper, p 47, May 2014

- (b) allows Calvary [Health Care ACT] to retain any surplus funding if it delivers any Services for less than the amount allowed under the Funding Model or relevant Performance Plan;
- (c) Calvary [Health Care ACT] to bear the risk of delivering the Services ... for any increase in Calvary [Health Care ACT]'s costs or effect on its ability to deliver the Services;
- ...
- (h) provide mechanisms to reward Calvary [Health Care ACT] for producing efficient and high quality services, including in support of quality improvement initiatives ...

2.88 As part of the activity-based funding model, clause 9.4 outlines that:

... the Territory will develop and provide to Calvary [Health Care ACT] a clinical costing system that Calvary [Health Care ACT] will use to cost the services which are to be funded and provided by it.

2.89 While there is an existing clinical costing system in place for the ACT Health Directorate, this has not been provided to Calvary Health Care ACT Ltd to facilitate the costing of its services. The ACT Health Directorate advised that it is in the planning stages for the replacement of its existing clinical costing system.

2.90 An activity-based funding model has not been developed and implemented for the purpose of determining payments to Calvary Health Care ACT Ltd for its public hospital services. The Calvary Network Agreement required this to be implemented by February 2015. The Calvary Network Agreement provides for the Territory to provide a clinical costing model to guide the implementation of the activity-based funding model. This has also not been achieved.

### Interim Funding Model

2.91 The Calvary Network Agreement provides for an Interim Funding Model to operate as a transitional arrangement, until the implementation of the activity-based funding model (envisaged to be implemented by February 2015). Through the Interim Funding Model, Calvary Public Hospital continues to be substantially block funded by the ACT Government (approximately 95 per cent of Calvary Public Hospital revenue is from the ACT Government).

2.92 The Interim Funding Model, as set out in clause 8 of the Calvary Network Agreement, provides for the performance and financial management of Calvary Health Care ACT Ltd's public hospital services through Annual Performance Plans that specify:

- activity and performance requirements; and
- the level of funding to be provided.

2.93 Several clauses in the Calvary Network Agreement provide additional guidance with respect to the funding of public hospital services, including:

- Clause 7.4, which provides that 'if the Territory implements any policy, contract or other arrangement which materially adversely impacts on Calvary's costs in providing

the Services during the Interim period ... the Territory must allow for any adverse impact on Calvary's costs in the relevant year's Performance Plan ... and ... if the additional cost is incurred part way through a relevant year's Performance Plan, pay Calvary the amount required to fund that additional cost if not otherwise met';

- Clause 8.1, which provides that, until the activity-based funding model is agreed, the Territory must 'provide to Calvary funding for the Public Hospital ... for an amount no less than the maximum funding amount that the Territory has provided in any immediately preceding Financial Year'; and
- Clause 8.3, which provides that 'if at any time [until the implementation of the activity-based funding model] the Territory's funding is insufficient to meet the actual costs to Calvary in providing the Services at the Public Hospital, the parties agree to meet and renegotiate the relevant Financial Year's Performance Plan.'

2.94 In the absence of an agreed and implemented activity-based funding model for funding for Calvary Public Hospital services, the Interim Funding Model provides for payment to Calvary Health Care ACT Ltd for an amount no less than the preceding year's amount, regardless of planned or actual performance levels. The Territory and Calvary Health Care ACT Ltd have agreed to extend the Interim Funding Model for 2015-16, from September 2015.

### 2015-16 funding model arrangements

2.95 Since 9 September 2015 there has been written agreement (refer to paragraph 2.60) that the Interim Funding Model is to continue in place for 2015-16 and for suitability of a new funding model to be considered before the beginning of the 2016-17 year. A funding model, referred to<sup>7</sup> as the 'initial first draft for discussion' was prepared by the ACT Health Directorate and sent to Calvary Health Care ACT Ltd in January 2015, and by 30 November 2015, the Calvary Network Committee noted:

Calvary [Health Care ACT Ltd] had drafted Funding Model guidelines and this document was now with National Office. It is expected that the document will be tabled at the CNA meeting to be held on Tuesday 15th December 2015'.

2.96 Until a successor funding model is agreed Calvary Health Care ACT Ltd and the ACT Health Directorate have agreed to implement a 'shadow' funding model that has elements of activity-based and block funding. A comparison of the outcomes of funding under the two models is intended to be made at the end of 2015-16 to understand key elements that need to be considered in moving to an activity-based funding model in the future.

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<sup>7</sup> Finance and Performance Committee 29 January 2015 (item 7.2) minutes

**RECOMMENDATION 5 FUNDING MODEL**

The ACT Health Directorate, in consultation with the Little Company of Mary Health Care Ltd and Calvary Health Care ACT Ltd, should commit to a timeframe for the finalisation and implementation of the successor to the interim funding model for Calvary Public Hospital services.

## Management of expenditure and funding changes

### Annual performance planning

2.97 Under the Interim Funding Model, clause 8.1 of the Calvary Network Agreement provides that the 'Territory' must provide Calvary Health Care ACT Ltd funding:

- 'in accordance with the [Annual] Performance Plan which [Calvary Health Care ACT Ltd] prepares for the then current Financial Year'; and
- 'for an amount no less than the maximum funding amount that the Territory has provided in any immediately preceding Financial Year'.

### Initially agreed funding

2.98 Table 2-3 shows funding agreed in Annual Performance Plans between 2012-13 and 2014-15 and the final amount of ACT Government funding provided, as well as the funding provided for in the Draft 2015-16 Annual Performance Plan. This is compared to the final level of ACT Government funding provided by year end for the years 2012-13 to 2014-15, following negotiation and agreement over funding and activity levels during the year.

**Table 2-3 Comparison of planned to actual funding**

Year	Funding Per the Annual Performance Plan	Final Amount of Funding Provided	Difference (\$)	Difference (%)
2012-13	\$159 000 000	\$167 789 300	\$8 789 300 increase	5.53% increase
2013-14	\$166 725 000	\$175 123 900	\$8 398 900 increase	5.04% increase
2014-15	\$185 412 900	\$187 757 150	\$2 344 250 increase	1.26% increase
2015-16	\$195 438 900			

Source: ACT Audit Office, based on information in Annual Performance Plans 2012-13 to 2015-16

2.99 Analysis of planned funding (as provided for in Annual Performance Plans) and final funding shows in the three years between 2012-13 and 2014-15, following negotiation between the ACT Health Directorate and Calvary Health Care ACT Ltd over funding and activity levels during each year, final funding provided to Calvary Health Care ACT Ltd was above that which was initially identified in the Annual Performance Plan.

### *Changes to funding agreed at commencement of the year*

2.100 Notwithstanding the identification of a funding amount in each year's Annual Performance Plan, it is noted that there is still a degree of imprecision in this amount. Clauses in the Annual Performance Plans provide for this amount to be adjusted as further information is provided. For example, the 2013-14 Annual Performance Plan provided for total funding for the year to be \$166 725 000 but that:

Total funding can be subject to re-negotiation in line with the final 2012/13 financial wash up and the final agreed cost weighted separations target.

2.101 Similarly, the 2014-15 Annual Performance Plan provided for total funding for the year to be \$185 412 900 but that:

This figure represents the base premise that the Performance Plan reflects the same level of funding as 2013-14 as a starting point to discussions and is therefore subject to adjustment for:

- the full year effect of 2013-14 initiatives,
- indexation,
- pay rises and
- agreed new initiatives.

Funding for 2014-15 will be based on the final outcome of 2013-14, inclusive of enterprise bargaining agreement variations and incorporate full year effect of initiatives funded part year in 2013-14. Additional funding in 2014-15 (including new initiatives and the full-year implications of current initiatives) will be negotiated following the passage of the 2014-15 ACT Budget.

2.102 The 2015-16 Annual Performance Plan provided for total funding for the year as \$195 438 900 and that:

... additional funding will be negotiated following the passage of the 2015-16 ACT budget.

2.103 While there is some certainty in annual funding for Calvary Health Care ACT Ltd under the Interim Funding Model, as funding will be provided that is no less than the final level of funding of the preceding year, there is an inherent uncertainty in the timing of decisions. The final budget may not be confirmed prior to finalising the ACT Government Budget, which may result in activity levels changing. Furthermore, other changes may be made based on negotiation processes. Greater certainty is needed to allow better planning for the delivery of services thereby making their delivery more effective and efficient.

### **Funding adjustments**

2.104 The Audit Office examined processes associated with the development and agreement of changes to funding that were focused on funding changes in 2013-14. However, a one-off increase in funding in 2012-13 was also considered.

### *2012-13 one-off increase in funding*

2.105 In June 2013 there was a one-off increase to Calvary Health Care ACT Ltd's funding of \$4.015 million. This followed representations from Calvary Health Care ACT Ltd in

September 2012 that 'Calvary Public Hospital was experiencing unprecedented levels of demand, and subsequent cost pressures as a result of increased activity for the first quarter of 2012-13'.

2.106 Correspondence from the ACT Health Directorate in June 2013 stated:

Current activity data suggests Calvary has managed to bring down activity in line with the activity target anticipated in our agreed [Annual Performance Plan] ... Extrapolated data to May 2012-13 presented to our Calvary Finance and Performance meeting on 25 June indicates you are on target to achieve [activity measure targets], with the possibility of variation either side of the target being well within the 2% tolerance band ...

... Despite this you have reported that expenditure has remained approximately \$3 million over budget. Even discounting for \$1 million in one-off contributions towards unforeseen additional workers compensation premium liability, it is not clear why cost pressures initially attributable to additional first quarter activity were not reduced as overall activity came back to target.

2.107 The correspondence further stated:

In order that we not encounter this situation again in 2013-14, ACT Health proposes that monitoring by Calvary Finance and Performance meetings be based on the principle that progress is measured against the total activity and budget set for the year.

*2013-14 funding adjustments*

2.108 After revisions due to the passage of the ACT Government Budget, the funding provided to Calvary Health Care ACT Ltd by the ACT Government was subject to further variations throughout 2013-14. This was the result of changes in agreed activities or new service initiatives and programs. Section 6 of the 2013-14 Annual Performance Plan allowed for variations, providing:

... As part of the Performance Review process under section 7, Finance and Activity & Performance will be subject to monthly review within the Calvary Finance and Performance meeting framework including consideration of options and agreement of actions for material over/under performance against the Performance Plan. However, outside of this process, where Calvary or ACT Health seek changes to any performance, activity or financial targets, the relevant party will advise the other as soon as practicable. This should be in writing and the appropriate level of communication should be between the Chief Executive Officer of Calvary and the Deputy Director-General Strategy and Corporate of Health Directorate.

2.109 Section 6 of the 2013-14 Annual Performance Plan outlined the process for amendments to performance, activity or financial targets. Section 6 provided:

- amendments should be in writing between the Calvary Health Care ACT Ltd Chief Executive Officer and the ACT Health Directorate Deputy Director-General, Strategy and Performance; and
- the Calvary Network Committee and Finance and Performance Committee could also facilitate this process.

2.110 Table 2-4 shows changes to funding for Calvary Health Care ACT Ltd throughout 2013-14.

**Table 2-4 2013-14 changes to funding**

Reference	Date	Adjustment Description	Amount
1	Aug-13	General Inpatient Beds & HITH - Calvary	\$4 955 000
2	Aug-13	Rapid Assessment Services - Calvary	\$800 000
3#	Aug-13	Specialist Palliative Care Nurse Practitioner (National Health Reform)	\$169 700
4	Nov-13	Reduce Thynne Street to 10 Months	\$27 700
5	Dec-13	One-off Thynne Street (Capital Fitout Funding - Staging and decanting 21272)	\$407 300
6	Jan-14	Additional Births	\$1 500 000
7#	Mar-14	SOGB	\$117 200
8	May-14	Remove Specialist Palliative Care Nurse Practitioner (National Health Reform)	\$169 700
9#	Jun-14	EBA - Core Offer - All Employment Groups	\$868 100
10#	Jun-14	EBA - Additional Nursing	\$468 300
11#	Jun-14	Reduction to Births	\$456 000

Source: ACT Audit Office, based on information from ACT Health Directorate

Note: The calculations in the table do not reconcile with the information in Table 2-3 relating to the final funding amount provided to Calvary Health Care ACT Ltd. The calculations in the Table 2-4 amount to an additional \$8 397 800 being provided while Table 2-3 shows an additional \$8 398 900 was provided. This is a difference of \$1 100. The Audit Office has not received information to explain the \$1 100 difference.

Note #: There was no evidence of approval from the relevant ACT Health Directorate delegate in the form of an official letter for five of the eleven funding adjustments made.

2.111 During 2013-14 the ACT Health Directorate Finance Team maintained a Calvary Network Agreement funding allocation 'running sheet' which itemised all variations to funding. Due to negotiations over additional funding items this running sheet was first shared with members of the Calvary Health Care ACT Ltd Finance Team in February 2014, seven months after the beginning of the financial year.

2.112 The Audit Office considered the funding allocation running sheet for 2013-14, and sought to agree funding variations from the initial funding amount to supporting:

- ACT Health Directorate delegate approvals; and
- evidence of communication in accordance with section 6 of the Annual Performance Plan outlined above.

2.113 In 2013-14, a total of \$8.389 million was provided to Calvary Health Care ACT Ltd in addition to the initially agreed funding. While there are agreed formal processes in the Calvary Network Agreement for funding amendments, these processes were not applied in all instances for amendments to funding in 2013-14. There was no evidence of approval from the relevant ACT Health Directorate delegate in the form of an official letter for five of the eleven funding adjustments made in 2013-14, as is the agreed process for making funding changes as outlined in section 6 of the Agreement. Amendments and disputes

relating to the 2013-14 Annual Performance Plan have not been recorded in a consistent manner through official letters or at the appropriate executive level.

- 2.114 Without adhering to an agreed formal approval process for funding changes there is a risk that funding is inappropriately approved. There is also a greater risk of ambiguity over the level of available funding to be recognised in financial systems and reports for a given period.
- 2.115 Changes that have been made to the conduct and documentation of Finance and Performance Committee meetings and Calvary Network Agreement meetings, as well as revised processes for funding changes and agreements, are discussed in paragraphs 4.36 to 4.48.

### Performance Target Adjustments

- 2.116 As discussed in paragraph 2.27, the Annual Performance Plan, as required under clause 13.2 of the Calvary Network Agreement, specifies the annual funding level or price to be paid for the services provided at the Calvary Public Hospital, as well as the activity measure target(s) and Key Performance Indicators (KPIs) to be met.
- 2.117 Cost-weighted inpatient separations in the Annual Performance Plans for both 2013-14 and 2014-15 was a key activity measure target for Calvary Health Care ACT Ltd's funding. Activity levels initially set during 2013-14, as detailed in the signed Annual Performance Plan, changed due to additional funding that was provided during 2013-14. The initial and the final targets are outlined in Table 2-5.

**Table 2-5 Key activity measure targets (initial and final)**

Activity Measure	Initial Target Per the signed Annual Performance Plan (2013-14)	Final Target (2013-14)
Elective Surgery Operations	4 950	5 028
Cost Weighted inpatient Separations	24 912	25 634
Number of Births	1 485	1 870

Source: ACT Audit Office, based on information in the 2013-14 Annual Performance Plan and 30 June 2014 Performance Report to the Finance and Performance Committee

- 2.118 There is evidence that the final cost-weighted inpatient separations target for 2013-14 was discussed in the Finance and Performance Committee meeting in January 2014. However, there is no evidence of formal quality assurance and acceptance of a revised target to support the calculation of the final targets for Elective Surgery Operations or the Number of Births activity measures.

2.119 The 2008 Audit Office *Management of Calvary Hospital Agreements* performance audit made recommendations that Calvary Health Care ACT Ltd should 'formalise the systems and procedures including maintenance or proper records for any variations to pricing agreements' and should 'seek agreement in a timely manner for new pricing arrangements'.

## 3 INAPPROPRIATE FINANCIAL PRACTICES

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- 3.1 This chapter discusses the inappropriate financial practices that occurred at Calvary Health Care ACT Ltd in 2013-14 and discusses the ways in which these were identified.

### Summary

### Conclusion

The Little Company of Mary Health Care Ltd's operating revenue in 2013-14 was \$1.066 billion. Calvary Health Care ACT Ltd's operating revenue for its public hospital services at Bruce was \$189.721 million in 2013-14 (17.7 per cent of the Little Company of Mary Health Care Ltd's total operating revenue).

Inaccurate information was entered in the Little Company of Mary Health Care Ltd's financial system, Finance One at the Calvary Public Hospital at Bruce. This facilitated the reporting of better financial performance than was occurring. The financial performance of Calvary Health Care ACT Ltd was inaccurately reported as being 'in balance' in monthly and other reports to the ACT Health Directorate and to the Little Company of Mary Health Care Ltd.

In addition to the inaccurate information entered in Finance One there was manipulation of financial and other reports in order to mislead. Reports that were provided to the ACT Health Directorate were manipulated, in order to ensure that information in them was consistent with information maintained by the ACT Health Directorate.

As well as inaccurate information presented in reports and reported to committees during the 2013-14 financial year, receivables were falsely reported in preparing the 2013-14 financial statements. This perpetuated the misleading financial position that had been reported throughout the year. A falsely reported \$3.7 million receivable was detected by the Chief Financial Officer of the Little Company of Mary Health Care Ltd and corrected before the *Calvary Health Care ACT Ltd 2014 Financial Report* was lodged with the Australian Securities and Investments Commission (ASIC) on 27 August 2014. Other falsely reported receivables totalling \$5.2 million were not identified until early September 2014. This necessitated the re-lodgement of the *Calvary Health Care ACT Ltd 2014 Financial Report* with ASIC on 5 November 2014. This resulted in a loss of \$9.451 million, equivalent to 4.98 per cent of the total revenue received from the ACT Government for the Calvary Public Hospital in 2013-14. There was however no loss to the ACT Government in 2013-14 nor evidence of misappropriation of funding.

The \$5.2 million receivable, in part, was purported to be evidenced and supported by agreement from the ACT Health Directorate during a meeting with Calvary Health Care ACT Ltd on 12 July 2013. This meeting did not occur and the document which purported to evidence it was falsely created. A former Calvary Health Care ACT Ltd executive has admitted creating the false document.

There were warning signs in the reporting of Calvary Health Care ACT Ltd's financial position for the Calvary Public Hospital in 2013-14 that the 'in balance' position being reported was improbable. These warning signs warranted greater examination by those overseeing the financial performance of Calvary Health Care ACT Ltd and the delivery of the Calvary Network Agreement. This did not happen.

## Key findings

	Paragraph
Primarily as a result of the entry of inaccurate information in Finance One, Calvary Health Care ACT Ltd's Public Hospital Operating EBITDA was revised from a surplus of \$1.925 million reported at year end to a loss of \$9.451 million in the revised <i>Calvary Health Care ACT Ltd Financial Report</i> (22 October 2014). <sup>8</sup> This loss equates to 4.98 per cent of the revenue Calvary Public Hospital received from the ACT Government in 2013-14.	3.9
The Little Company of Mary Health Care Ltd advised the Audit Office that the former Chief Executive Officer of Calvary Health Care ACT Ltd was offered the opportunity to resign on 7 August and departed on 14 August 2014.	3.22
On 5 September 2014 the Calvary Health Care ACT Ltd Chief Financial Officer tendered their <sup>9</sup> resignation and provided a written statement that identified that they had, on 30 July 2014, falsely created minutes of the Project Control Group meeting dated 12 July 2013.	3.35
The former Chief Financial Officer of Calvary Health Care ACT Ltd was responsible for preparing written reports associated with Calvary Health Care ACT Ltd's financial position during 2013-14, with the assistance of the Calvary Health Care ACT Ltd Finance Team. The former Calvary Health Care ACT Ltd Chief Executive Officer presented the reports that contained incorrect financial information to different fora.	3.45
Key information consistently conveyed through various financial reports throughout 2013-14 was that: <ul style="list-style-type: none"> <li>• the monthly financial position during 2013-14 was 'in balance' or was 'tracking to meet budgeted result for the end of the financial year';</li> <li>• each month's Operating EBITDA contribution during 2013-14 was the same as what had been budgeted for in July 2013; and</li> </ul>	3.50

<sup>8</sup> There were also other smaller contributing factors to the change in the Operating EBITDA, including an increase in operating expenditure of \$1 206 675 which was a result of an increase in doubtful debt provision of \$1 306 000 and a reduction in accrued payables of \$99 325.

<sup>9</sup> The convention adopted in this report is to use the third person plural pronouns *they, them* or *their* instead of singular pronouns *he/she, him/her* or *his/her* when referring to an individual

- the 'in balance' position stated in reports was supported by financial data for the revenue, expenditure and Operating EBITDA contribution in the same reports.

The range of financial reports presented to the different fora was produced by Calvary Health Care ACT Ltd executives and officers from inaccurate data entered in Finance One by Calvary Health Care ACT Ltd officers. This incorrect information formed the basis of the financial reports presented to the different fora. The financial reports all identified that the monthly financial position during 2013-14 was 'in balance' and was 'tracking to meet budgeted result for the end of the financial year'.

3.51

Information presented to the Finance and Performance Committee in the fourth quarter of 2013-14 and the Calvary Network Committee in June 2014 was different from the information in Finance One. As the Finance and Performance Committee and Calvary Network Committee included representatives of the ACT Health Directorate, if the reported information had been accurate, they would have been in a better position to identify that the revenue data in Finance One was overstated and incorrect, given their knowledge of agreed funding for the Calvary Public Hospital.

3.60

Information in Finance One and reported to Calvary Health Care ACT Ltd and Little Company of Mary Health Care Ltd accurately reflected expenditure (which was higher than expected) but inaccurately and misleadingly overstated revenue, in order to portray an 'in-balance' position throughout the year. Information reported to the Finance and Performance Committee in the fourth quarter of 2013-14 and the Calvary Network Committee in June 2014 inaccurately reflected revenue and incorrectly understated expenditure, in order to maintain the budgeted EBITDA position.

3.61

While an 'in-balance' position was communicated in financial reports during 2013-14 based on the information in Finance One, there were signs in the same reports that an 'in-balance' position for Calvary Public Hospital was improbable due primarily to accelerated and eventual over recognition of revenues. The improbability of an 'in-balance' position is evident if other information in the monthly financial reports provided to executives is considered. These are:

3.62

- actual revenue versus budgeted revenue;
- actual expenditure versus budgeted expenditure;
- Operating EBITDA; and
- prepaid income in the balance sheet.

Analysis of revenue that was reported in monthly financial reports throughout 2013-14 shows that revenue was being consistently reported over and above the monthly budgeted revenue. The consistent reporting of revenue higher than the monthly budgeted revenue warranted greater examination, discussion and comprehensive explanation in the monthly financial reports than occurred. While it is plausible that revenue recognised monthly during 2013-14 would be on average greater than the budgeted figure, there was no explanation provided for the scale of the variance. 3.67

Analysis of expenditure that was reported in monthly financial reports to committees, to the Calvary Health Care ACT Ltd Executive team and to Little Company of Mary Health Care Ltd executives throughout 2013-14 shows that expenditure was consistently reported over and above the monthly budgeted expenditure with: 3.73

- actual expenditure for each month in 2013-14 being greater than that budgeted, by between four and 14 per cent per month; and
- total budgeted expenditure for 2013-14 of \$182.751 million being exceeded by \$15.214 million by 30 June 2014.

Analysis of Operating EBITDA that was reported in monthly financial reports throughout 2013-14 shows that the actual Operating EBITDA contribution for the Calvary Public Hospital was exactly the same as the budgeted Operating EBITDA contribution for every month during 2013-14. This indicates that each month's surplus or deficit, predicted when the budget was set prior to the beginning of the year, was achieved exactly, every month of the year. In the absence of other information, reporting each month a zero variance from the budgeted Operating EBITDA strongly indicates that costs are highly controllable and are being tightly controlled and/or revenue streams are flexible and the earning of revenue takes place in a very timely manner. Neither of these scenarios is a likely explanation for a public hospital. The accompanying narrative in financial reports did not state how exactly an 'on budget' Operating EBITDA result was being achieved each and every month. 3.83

Throughout 2013-14 Calvary Public Hospital expenditure was continuously exceeding initially budgeted expenditure. Additional revenue accruals were entered in Finance One by the Calvary Health Care ACT Ltd Finance Team staff on the basis of instruction by the former Calvary Health Care ACT Ltd Chief Financial Officer. The additional revenue accrual amounts entered on a monthly basis sought to balance monthly revenue against monthly expenditure and, accordingly, achieved an 'in balance' monthly Operating EBITDA result, which matched the budgeted Operating EBITDA result. 3.84

Annual Performance Plans developed each year for Calvary Health Care ACT Ltd identify a single financial Key Performance Indicator to 'achieve agreed financial position (EBITDA) within 1 per cent'. Accordingly, it is appropriate that the ACT Health Directorate and the Little Company of Mary Health Care Ltd executive should monitor Operating EBITDA. However, trend information associated with EBITDA results was not presented in a manner that facilitated an understanding of what was occurring, and there was a lack of supporting explanatory narrative and accompanying revenue and expenditure information, which meant that the ACT Health Directorate and the Little Company of Mary Health Care Ltd executive did not receive sufficient information on which to readily review Calvary Health Care ACT Ltd's financial performance. 3.87

The 'prepaid income received' account for Calvary Health Care ACT Ltd's in Finance One primarily relates to ACT Government grant funding. An analysis of this account between February 2014 and June 2014 shows that: 3.98

- between March 2014 and May 2014 the amounts debited from the account and recognised as Government grant revenue were more than that which had been received as grant funding from the ACT Health Directorate. The account, which should ordinarily be in credit, had an increasing debit balance over this period;
- by May 2014, the account was in deficit by \$5.806 million. This reflected that \$5.806 million more revenue had been recognised as Government grant revenue by May 2014 than actual funds received from the ACT Health Directorate; and
- by 30 June 2014, the balance of the account had been reduced to zero once the falsified receivables (refer to paragraph 3.3) had been created. A debit balance for this account would have been problematic for the purposes of the 2013-14 financial statements audit.

Analysis of journal entries made in the 'prepaid income received account' in Finance One for Calvary Health Care ACT Ltd throughout 2013-14 shows: 3.112

- a total of 14 entries were made in the 'prepaid income received account' totalling \$12.189 million for the year. One to two entries were made each month for sums of between \$187 000 and \$1.8 million; and
- entries that were made were identified as 'balancing sums' and were consistently titled 'Adjustment to funding - bring in line to journal/agree with MTD [month to date] position'.

The inaccurate information entered in the Finance One system was created to offset overspending during the period and derive an Operating EBITDA position that was on budget. The additional revenue accrual amounts entered on a monthly basis sought to balance monthly revenue against monthly expenditure and, accordingly, achieved an 'in balance' monthly Operating EBITDA result, which 3.113

matched the budgeted Operating EBITDA result. The entries had no basis in accounting principles or standards and had the effect of obscuring the true financial position of Calvary Public Hospital.

Analysis of Operating EBITDA that was reported in monthly financial reports throughout 2012-13 shows that the actual Operating EBITDA contribution for the Calvary Public Hospital was exactly the same as the budgeted Operating EBITDA contribution in seven of the last nine months of 2012-13, i.e. a zero variance was reported between budgeted and actual Operating EBITDA. This indicates that regular revenue adjustment was likely to have been taking place from October 2012 onwards, using balancing sums in 2012-13, as happened in 2013-14. 3.122

Information in Finance One for Calvary Health Care ACT Ltd, for 2012-13, shows that journal entries were created in the 'prepaid income received account' on a regular basis, similar to the practice that occurred in 2013-14. These records are immediately identifiable as they are named 'Adjustment to funding – ACT Grant journal/to agree MTD position', i.e. they are referred to as 'balancing' sums. 3.123

Analysis of journal entries made in the 'prepaid income received account' in Finance One for Calvary Health Care ACT Ltd throughout 2012-13 shows: 3.126

- a total of nine entries were made in the 'prepaid income received account' totalling \$0.998 million for the year. One to two inaccurate entries were made each month for sums of between + \$1.4467 million and - \$3.958 million; and
- inaccurate entries that were made were identified as 'balancing sums' and were consistently titled 'Adjustment to funding - bring in line to journal/agree with MTD [month to date] position'.

## Manipulated financial information

- 3.2 The Little Company of Mary Health Care Ltd's 2013-14 Financial Statements (22 October 2014) indicate that its operating revenue was \$1.066 billion on an operating expenditure of \$1.054 billion. For 2013-14, financial reports extracted from the Little Company of Mary Health Care Ltd's financial management system (Finance One) indicate that Calvary Health Public Hospital had \$189.721 million in operating revenue, with an operating expenditure of \$199.172 million.
- 3.3 Throughout 2013-14 the Little Company of Mary Health Care Ltd's financial management system (Finance One), had information entered into it at Bruce in relation to Calvary Health Care ACT Ltd which facilitated the reporting of a better financial performance than was occurring. Finance One was relied on to generate reports on the financial situation of Calvary Health Care ACT Ltd which were produced throughout the year. At the end of the 2013-14 financial year, to justify the reported financial performance, a total of \$8.892 million in receivables purportedly owed by the ACT Government (ACT Health Directorate) were falsely reported. The false reporting of \$8.892 million was made up of:
- a \$3.717 million receivable for an 'employee entitlement obligation'; and
  - \$5.175 million in other receivables comprising:
    - \$1.643 million related to Commonwealth incentive funding for National Elective Surgery Target (NEST) and National Emergency Access Target (NEAT) performance;
    - \$3.182 million related to a new Emergency Department model of care; and
    - \$0.350 million related to a palliative care specialist.
- 3.4 The inclusion of these receivables led to Calvary Health Care ACT Ltd's 2013-14 Public Hospital financial results being presented more positively than was actually the case. The subsequent removal of these receivables contributed to Calvary Health Care ACT Ltd's Public Hospital financial position being a deficit of \$9.451 million rather than a surplus of \$1.925 million, as would have been the case if the receivables had not been removed.<sup>10</sup>
- 3.5 The \$3.717 million 'employee entitlement obligation' receivable was detected and corrected before the *Calvary Health Care ACT Ltd 2014 Financial Report*<sup>11</sup> was lodged with the Australian Securities and Investments Commission<sup>12</sup> (ASIC) on 27 August 2014.

<sup>10</sup> There were also other smaller contributing factors to the change in operating EBITDA, including an increase in operating expenditure.

<sup>11</sup> The Calvary Health Care ACT Ltd 2014 Financial Report was prepared in accordance with the *Australian Charities and Not-For-Profits Commission Act 2012* (ss 60-10 to 60-60).

<sup>12</sup> *Corporations Act 2001* sets out (s292) who has to prepare a financial report, and how the report is to be prepared (s295 to s301) and its lodgement (s319) with the Australian Securities and Investments Commission (ASIC).

3.6 The \$5.175 million in other receivables was not detected and therefore not corrected prior to the lodgement of the *Calvary Health Care ACT Ltd 2014 Financial Report*<sup>13</sup> with ASIC on 27 August 2014. An amended *Calvary Health Care ACT Ltd 2014 Financial Report* was lodged with ASIC on 5 November 2014 in which the \$5.175 million of other receivables relating to the Public Hospital was reversed.

### Revised financial position details

3.7 Inaccurate information entered into the Little Company of Mary Health Care Ltd's financial management information system (Finance One) at Bruce led to Calvary Health Care ACT Ltd's Public Hospital financial position being significantly misrepresented in financial reports throughout the year and at the end of the year. Calvary Health Care ACT Ltd's operating revenue<sup>14</sup> and Operating EBITDA<sup>15</sup> (earnings before interest, taxation, depreciation and amortisation) for 2013-14 were significantly overstated as a result of the entry of inaccurate information in Finance One.

3.8 Table 3-1 shows the change in Calvary Health Care ACT Ltd's Public Hospital Operating EBITDA for 2013-14, from that which was budgeted and reported up to the end of the year to that which was finally determined following the detection and correction of inaccurate information in Finance One.

**Table 3-1 Summary of movements in Operating EBITDA (Calvary Public Hospital)**

2013-14 year	Budgeted and reported amount (\$)	Final amount (\$)	Variance (\$)
Operating EBITDA	+ 1 924 549	- 9 451 057	- 11 375 606
Percentage of total Calvary Public Hospital revenue received from the ACT Government	1.01 %	4.98 %	6.00 %

Source: ACT Audit Office, based on information from Little Company of Mary Health Care Ltd.

3.9 Primarily as a result of the entry of inaccurate information in Finance One, Calvary Health Care ACT Ltd's Public Hospital Operating EBITDA was revised from a surplus of \$1.925 million reported at year end to a loss of \$9.451 million in the revised *Calvary Health Care ACT Ltd Financial Report* (22 October 2014).<sup>16</sup> This loss equates to 4.98 per cent of the revenue Calvary Public Hospital received from the ACT Government in 2013-14.

<sup>13</sup> *The Calvary Health Care ACT Ltd 2014 Financial Report* was prepared in accordance with the *Australian Charities and Not-For-Profits Commission Act 2012* (s60-10 to s60-60).

<sup>14</sup> Operating revenue refers to revenues generated through the receipt of government funding and other income such as patient fees for the provision of services.

<sup>15</sup> Operating EBITDA refers to earnings, that is operating revenue minus operating expenses, before taking account of interest, taxation, depreciation or amortisation amounts. It is a measure of an organisation's profitability.

<sup>16</sup> There were also other smaller contributing factors to the change in the Operating EBITDA, including an increase in operating expenditure of \$1 206 675 which was a result of an increase in doubtful debt provision of \$1 306 000 and a reduction in accrued payables of \$99 325.

- 3.10 Details of the detection and correction of the two sets of falsely reported receivables (the \$3.717 million receivable for 'employee entitlement obligation' and the \$5.175 million in other receivables) are as follows. Despite the falsely reported receivables there is no evidence that monies were misappropriated.

### **\$3.717 million receivable for 'employee entitlement obligation'**

- 3.11 Prior to 2013-14 discussions had begun between Calvary Health Care ACT Ltd and the ACT Health Directorate with respect to whether the ACT Health Directorate was liable to pay for a range of leave entitlements that had been accrued by Calvary Health Care ACT Ltd employees prior to July 2002 (when Calvary Health Care ACT Ltd transitioned to accrual accounting). A letter dated 22 October 2012 from the former Chief Executive Officer of Calvary Health Care ACT Ltd to the ACT Health Directorate Director-General invited the ACT Health Directorate to formally meet to discuss 'a significant liability to Calvary Health Care ACT Ltd' since:

... Whilst the current funding arrangements with the [ACT Health Directorate] are determined on a cash basis [financial] statements have been prepared on the understanding that the ACT Government is also responsible for particular items within the statements for which no funding has been provided, including accumulated provisions of Long Service Leave, Annual Leave and Superannuation.

- 3.12 The liability was calculated by Calvary Health Care ACT Ltd as '\$12.356 million net present value of 30 June 2002 leave entitlements at 31 December 2011'. During 2013-14 discussions were ongoing, and records of discussions were maintained and reported at the Finance and Performance Committee and the Calvary Network Committee. Action logs for both committees in the 2013-14 year do not identify any ACT Government commitment to pay any monies. However, they do identify discussions had taken place and the need to reach agreement.
- 3.13 Throughout July 2014, the Little Company of Mary Health Care Ltd Chief Financial Officer (who was based in Sydney) and team were in the process of preparing 2013-14 financial statements. These were to be prepared on the basis of information that was in Finance One.
- 3.14 On 28 July 2014, as part of the process for preparing the end of year financial statements, the Chief Financial Officer of the Little Company of Mary Health Care Ltd questioned the former Chief Financial Officer of Calvary Health Care ACT Ltd about the inclusion of the \$3.717 million receivable for an 'employee entitlement obligation' in the Calvary Health Care ACT Ltd 2013-14 financial statements.
- 3.15 The Chief Financial Officer of the Little Company of Mary Health Care Ltd advised the Audit Office that they began to have concerns over the legitimacy of the \$3.717 million receivable when the accounting treatment of the receivable was first made apparent in a compliance questionnaire submitted by Calvary Health Care ACT Ltd on 17 July 2014.<sup>17</sup>

<sup>17</sup> Little Company of Mary Health Care Audit and Compliance Questionnaire 2014 (Calvary Health Care ACT Public) pages 21 and 52

The compliance questionnaire is sought from Little Company of Mary Health Care Ltd business units for the purpose of preparing the annual financial statements. The compliance questionnaire was signed off by the former Chief Executive Officer and Chief Financial Officer of Calvary Health Care ACT Ltd.

- 3.16 In response to these concerns and in a series of email exchanges on 28 July and 29 July 2014 the former Chief Financial Officer of Calvary Health Care ACT Ltd provided information and a rationale for including the receivable to the Chief Financial Officer of the Little Company of Mary Health Care Ltd. An email sent by the former Chief Financial Officer of Calvary Health Care ACT on 29 July 2014 purported to contain a record of the Finance and Performance Committee meeting of 27 May 2014. However, this record was different to that which was produced and circulated to meeting attendees between 7 July and 25 July 2014 by the ACT Health Directorate. Table 3-2 shows the difference in the records.

**Table 3-2 Extract from records of discussions of Finance and Performance Committee meetings May/June 2014**

<b>Action Item 4.2 'Employee entitlement progress'</b>	
<b><i>Original record created and circulated to meeting attendees between 7 and 25 July 2014 by the ACT Health Directorate</i></b>	<b><i>Amended record provided by former Chief Financial Officer of Calvary Health Care ACT to Chief Financial Officer of Little Company of Mary Health Care Ltd on 29 July 2014</i></b>
<u>27/5/14</u> : [ACTH CFO] and [CHC CFO] provided feedback from the Treasury meeting and current work in progress. They agreed to provide a paper by end of July to present back to the group at August's meeting.	<u>27/5/14</u> : [ACTH CFO] and [CHC CFO] provided feedback from the Treasury meeting and current work in progress. Following on from EY report, CHCACT continues to determine what is owed and will provide a conservative estimate at year end.
<u>24/6/14</u> : [CHC CFO] reported that CHC was still determining what the real value would be. They would have a draft to [ACTH CFO] early August, and could then go back to Treasury.	

Source: Calvary Health Care ACT email archive (extracted 13 May 2015) and ACT Health Directorate records (obtained 22 July 2015)

- 3.17 The amended record (29 July 2014) is misleading. It had not been seen by other Finance and Performance Committee members and therefore did not have the Committee's (including ACT Health Directorate's) endorsement. The matter is complicated, however, because of a lack of rigour in documentation and record-keeping practices for the Finance and Performance Committee at the time and the fact that minutes of meetings were not formally agreed and endorsed. The amendment implies agreement had been reached on 27 May 2014 that Calvary Health Care ACT Ltd would determine the 'employee entitlement' figure and that this would be a conservative estimate which would be provided at year end. The amended record's action items presented a more progressed position on negotiations, one that would arguably be better able to support the inclusion of a receivable in the 2013-14 financial statements.

- 3.18 Although there had been a series of other discussions between Calvary Health Care ACT Ltd, the ACT Health Directorate and the Little Company of Mary Health Care Ltd throughout 2013-14 over employee entitlements, and despite the amended meeting record (29 July 2014), the Little Company of Mary Health Care Ltd Chief Financial Officer viewed the inclusion of the \$3.717 million receivable in the year ending 30 June 2014 financial statements as unreasonable, as discussions had not led to a resolution regarding this matter.
- 3.19 The Little Company of Mary Health Care Ltd's external auditor (Deloitte) had not at that point identified the reported receivable as problematic as part of its annual financial statements audit of the Little Company of Mary Health Care Ltd (and its controlled entities such as Calvary Health Care ACT Ltd). However, the \$3.717 million receivable, once questioned by the Little Company of Mary Health Care Ltd Chief Financial Officer, was reviewed by the external auditor who also considered it to be an unreasonable receivable. Deloitte provided advice to this effect in the audit update report to the Little Company of Mary Health Care Ltd Board Audit and Risk Committee (1 August 2014).
- 3.20 The \$3.717 million receivable was reversed in Finance One on 31 July 2014 (refer to Case Study 1), and new financial statements were prepared. On 31 July 2014 a representation letter was sent to the Little Company of Mary Health Care Ltd directors confirming 'the financial report gives a true and fair view in accordance with Australian Accounting Standards and the *Corporations Act 2001*'. The letter endorsed Calvary Health Care ACT Ltd's revised 2013-14 financial statements and was signed by the National Director Public Hospitals (of the Little Company of Mary Health Care Ltd), and the former Chief Executive Officer and former Chief Financial Officer of Calvary Health Care ACT Ltd.
- 3.21 At a meeting of the Board Audit and Risk Committee on 7 August 2014, which was attended by the former Chief Executive Officer and former Chief Financial Officer of Calvary Health Care ACT, this issue was discussed. The minutes of the meeting note:
- [The former Chief Financial Officer] outlined the issue in relation to the inappropriate recognition of \$3.7m of revenue regarding employee entitlement claims against ACT Health in the CHCACT accounts and further discussed the shortcomings in the processes used.
- [The former Chief Financial Officer] noted that the largest error was the failure to discuss the matter with National Office. [The former Chief Financial Officer] further noted that the positive aspect of the matter is that the organisation will receive a "cash windfall" of \$10m. This has not yet been signed off, but has been minuted from meetings with ACT Health.
- It was noted that at the request of the [Little Company of Mary Health Care Ltd Chief Financial Officer] the \$3.7m adjustment was reversed and the reversal was supported by Deloitte who indicated it did not meet the appropriate tests for recognition. It was agreed by the auditors that a contingent asset note could be included.
- 3.22 The Little Company of Mary Health Care Ltd advised the Audit Office that the former Chief Executive Officer of Calvary Health Care ACT Ltd was offered the opportunity to resign on 7 August and departed on 14 August 2014.

- 3.23 The Little Company of Mary Health Care Ltd Board approved the Calvary Health Care ACT Ltd 2013-14 financial statements on 20 August 2014, and the *Calvary Health Care ACT Ltd 2014 Financial Report* was lodged with ASIC on 27 August 2014. The inclusion of the \$3.717 million receivable for an 'employee entitlement obligation' within the Finance One system led to a misreported year-end financial position for Calvary Public Hospital and therefore for Calvary Health Care ACT Ltd, but as the receivable was identified and reversed prior to the lodgement of the 2014 Financial Report it did not result in a misstatement in Calvary Health Care ACT Ltd's year ending 30 June 2014 financial statements.

#### Case Study-1 \$3.717 million receivable for 'employee entitlement obligation'

A \$3.717 million receivable from the ACT Health Directorate relating to an 'employee entitlement obligation' was raised by Calvary Health Care ACT Ltd at the end of the 2013-14 financial year. The 'employee entitlement obligation' was being discussed at Finance and Performance Committee meetings during 2013-14 where it was noted in meeting action logs that:

- the ACT Health Directorate stated that this matter would not be resolved prior to July / August of 2014 (25 February 2014);
- a strategy for reaching agreement needed to occur between ACT Treasury, the ACT Health Directorate and Calvary Health Care ACT Ltd (24 June 2014); and
- Calvary Health Care ACT Ltd were still determining what the real value would be and would have a draft to the ACT Health Directorate in early August 2014 (24 June 2014).

*Accounting Standard AASB118 Revenue* states that 'Revenue is recognised when it is probable that future economic benefits will flow to the entity and these benefits can be measured reliably.' The standard notes that in relation to the rendering of services (para. 20) that for revenue to be recognised all the following conditions must be satisfied:

- (a) the amount of revenue can be measured reliably;
- (b) it is probable that the economic benefits associated with the transaction will flow to the entity;
- (c) the stage of completion of the transaction at the end of the reporting period can be measured reliably; and
- (d) the costs incurred for the transaction and the costs to complete the transaction can be measured reliably.'

The absence of agreement or even a 'strategy for agreement' by 30 June 2014 indicates conditions (a), (c) and (d) were not met. Three of the four conditions were not met, and therefore the recognition of this amount by Calvary Health Care ACT Ltd was not in accordance with accounting standard AASB118. The removal of the \$3.717 million receivable from the year ending 30 June 2014 financial statements was appropriate.

Source: ACT Audit Office

#### Further review of Calvary Health Care ACT Ltd 2013-14 financial information

- 3.24 Following the identification and reversal of the \$3.717 million receivable for an 'employee entitlement obligation', under the direction of the Board Audit and Risk Committee, the Little Company of Mary Health Care Ltd Chief Financial Officer instructed the external auditor (Deloitte) to conduct a supplementary review of the year ending 30 June 2014 financial statements of Calvary Health Care ACT Ltd (and three other public hospitals in the Little Company of Mary Health Care Ltd). This review focused on:

... the management judgemental areas (i.e. more subjective areas such as prepayments, accruals ...

- 3.25 The review identified three other matters relating to Calvary Health Care ACT Ltd. These were: accruals for seconded doctors, a radiology incentive payment and bonuses. The supplementary review did not identify any further problematic receivables. In a report dated 19 August 2014, the supplementary review concluded that:

Subject to the open items mentioned above, we didn't note any material exceptions based on our detailed review of reconciliations supported by documents and explanations provided to us.

- 3.26 The 19 August 2014 Deloitte report led to Calvary Health Care ACT Ltd reviewing its debtors, and this led to an increase in the doubtful debt provision of \$1 306 000 and a reduction in accrued payables of \$99 325.

### **\$5.175 million in other receivables**

- 3.27 The Little Company of Mary Health Care Ltd Board approved Calvary Health Care ACT Ltd's 2013-14 financial statements on 20 August 2014, prior to the lodgement of the *Calvary Health Care ACT Ltd 2014 Financial Report*<sup>18</sup> with ASIC on 27 August 2014.

### **ACT Audit Office inquiries**

- 3.28 On 21 August 2014, the ACT Health Directorate became aware as a result of a routine inquiry by the ACT Audit Office that the ACT Health Directorate was being identified as a 2013-14 debtor for receivables recorded in Finance One for Calvary Health Care ACT Ltd totalling \$5.175 million. The ACT Health Directorate's year ending 30 June 2014 financial statements did not contain a corresponding liability.
- 3.29 As part of the annual audit of the financial statements of the ACT Health Directorate and the ACT Local Hospital Network Directorate,<sup>19</sup> on 13 August 2014 the Audit Office sought confirmation from the former Chief Financial Officer of Calvary Health Care ACT Ltd of the amounts received from the ACT Health Directorate and ACT Local Hospital Network Directorate and the amounts receivable. In an email to an Audit Office representative on 21 August 2014 the former Calvary Health Care ACT Ltd Chief Financial Officer confirmed received amounts for Calvary Health Care ACT Ltd and also reported that there were receivables from the ACT Health Directorate. The former Chief Financial Officer of Calvary Health Care ACT Ltd advised in an email 'Please see confirmation as requested' and provided detail on the amounts to be accrued (with a total of \$5.175 million).

<sup>18</sup> The *Calvary Health Care ACT Ltd 2014 Financial Report* was prepared in accordance with the *Australian Charities and Not-For-Profits Commission Act 2012* (ss60-10 to 60-60).

<sup>19</sup> The ACT Local Hospital Network Directorate was established under the *Health Act 1953* and is administered by the Director-General of the ACT Health Directorate. The ACT Local Hospital Network receives funding from both the Commonwealth and the ACT Governments and it purchases hospital services from ACT public hospital providers including Calvary Public Hospital.

- 3.30 The Audit Office identified that these receivables did not correlate with those to be paid (payables) in the ACT Health Directorate and ACT Local Hospital Network Directorate's year ending 30 June 2014 financial statements. These discrepancies were raised by the Audit Office with ACT Health Directorate representatives on 21 August 2014 via email and a telephone conversation.

### ACT Health Directorate questioning of Calvary Health Care ACT Ltd

- 3.31 On 26 August 2014 there was a scheduled Finance and Performance Committee meeting between the ACT Health Directorate and Calvary Health Care ACT Ltd representatives. The issue of the apparent discrepancy between amounts recorded as accounts receivable by Calvary Health Care ACT Ltd and amounts payable by the ACT Health Directorate was raised at the meeting.
- 3.32 During the meeting of 26 August 2014, in support of the claim for funding for a new Emergency Department model of care, the former Chief Financial Officer of Calvary Health Care ACT Ltd provided minutes of a Project Control Group meeting of 12 July 2013 where it was purported that the committee had agreed to the funding as follows:
- ... committee had endorsed the revised ED MOC relating to refurbished Emergency Department. Funding will be provided through National Health Reform via Commonwealth funding. \$3.1m will be provided and distributed at year end wash-up. Noted that Calvary will provide for these funds at year end.
- 3.33 Following the Finance and Performance Committee meeting of 26 August 2014, the ACT Health Directorate representatives reviewed the document provided by the former Chief Financial Officer of Calvary Health Care ACT Ltd and identified that they had concerns with respect to its authenticity. The ACT Health Directorate subsequently raised its concerns with the Interim Chief Executive Officer of Calvary Health Care ACT Ltd.
- 3.34 On 4 September 2014 the Interim Chief Executive Officer of Calvary Health Care ACT Ltd conveyed the ACT Health Directorate's information to the former Chief Financial Officer of Calvary Health Care ACT Ltd and sought information with respect to the ACT Health Directorate's concerns.
- 3.35 On 5 September 2014 the Calvary Health Care ACT Ltd Chief Financial Officer tendered their<sup>20</sup> resignation and provided a written statement that identified that they had, on 30 July 2014, falsely created minutes of the Project Control Group meeting dated 12 July 2013.
- 3.36 The statement also provided information with respect to their motivation, which was principally that they were bullied by the former Chief Executive Officer of Calvary Health Care ACT Ltd into securing a balanced financial position.

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<sup>20</sup> The convention adopted in this report is to use the third person plural pronouns *they*, *them* or *their* instead of singular pronouns *he/she*, *him/her* or *his/her* when referring to an individual

## Case Study-2 \$1.643 million in receivables relating to Commonwealth incentive funding (NEAT and NEST)

\$5.175 million in receivables, comprising items relating to Commonwealth incentive funding under the National Elective Surgery Target (NEST) and National Emergency Access Target (NEAT), and a new Emergency Department model of care and a receivable for palliative care, were included in the Calvary Health Care ACT Ltd 2014 Financial Report lodged with ASIC on 27 August 2014.

The following table shows the total receivables relating to incentive funding and the palliative care specialist. (The other receivables relating to the Emergency Department Model of Care, is discussed in Case Study 3).

Description	30 June 2014
Receivable Incentive Funding (for the 2012-13 year)	651 105
Receivable Incentive Funding (for the 2013-14 year)	992 000
Palliative Care Specialist working at TCH	350 000
<b>Total</b>	<b>1 993 105</b>

This case study focuses on Calvary Health Care ACT Ltd's reporting of a receivable for funding for National Elective Surgery Target (NEST) and National Emergency Access Target (NEAT) incentive funding totalling \$1 643 105 in 2013-14. The inclusion of this amount in the year ending 30 June 2014 financial statements involved falsified information, as these items had already been determined and recorded as non fundable during 2013-14.

### **The receivables for incentive funding**

Incentive funding relating to 2012 and 2013 was discussed in Finance and Performance Committee meetings during 2012-2013 and 2013-14. However the matter of incentive funding for 2012 was resolved in a letter dated 19 April 2013 from the Deputy Director-General of the ACT Health Directorate to the former Chief Executive Officer of Calvary Health Care ACT Ltd, which advised that no 2012 funding was available to Calvary Health Care ACT Ltd for NEAT or NEST performance. Discussion between Calvary Health Care ACT Ltd and ACT Health Directorate staff as to 2012 funding continued at Finance and Performance meetings up to and including the meeting of 24 June 2014, but there was no agreement to a different outcome to that established in the ACT Health Directorate letter of 19 April 2013. For 2013 incentive funding, the ACT Health Directorate confirmed no funding was available to Calvary Health Care ACT Ltd in a letter dated 3 March 2014. Executives of Calvary Health Care ACT Ltd acknowledged this in the Finance and Performance Committee meeting action log on 29 April 2014.

It was therefore unreasonable according to AASB 118 to include any receivable for these items in the year ending 30 June 2014 financial statements as there was no prospect of 'economic benefits associated with the transaction flowing to the entity'. While this had been confirmed in writing, Calvary Public Hospital officers did not respect ACT Health Directorate's written determination on this and incorrectly recorded it as a receivable.

Source: ACT Audit Office

### Case Study-3 \$3.182 million receivable for a new Emergency Department Model of Care

This case study focuses on Calvary Health Care ACT Ltd's reporting of a receivable for funding for a new Emergency Department Model of Care totalling \$3 182 000 in 2013-14. The inclusion of this amount in the year ending 30 June 2014 financial statements involved falsified information, as these items had already been determined and recorded as non fundable. Furthermore the Annual Performance Plan for 2013-14 did not provide for additional funding for Emergency Department services over planned activity levels.

This issue was being discussed at Finance and Performance Committee meetings between August to November 2013 where it was noted in meeting action logs that:

- the ACT Health Directorate provided a formal response on the Emergency Department Model of Care and funding implications received by Calvary Health Care ACT Ltd in the ACT Health Directorate consolidated letter (dated 13 September 2013). This letter noted that the ACT Health Directorate did not wish to purchase any additional activity and staffed services in the Emergency Department. These points were noted in the action log for 24 September 2013; and
- the former Chief Executive Officer of Calvary Health Care ACT Ltd acknowledged the content of the ACT Health Directorate letter that no additional activity and staff services were to be purchased. The item was then closed in the Finance and Performance Committee meeting on 26 November 2013.

However, during the audit of Calvary Health Care ACT Ltd year ending 2014 financial statements, a minute of a Calvary Project Control Group Committee meeting of 12 July 2013 was provided to the external auditor, Deloitte, as supporting evidence for the Emergency Department Model of Care receivable totalling \$3 182 000. The minute claimed the:

'... PCG committee endorsed the revised ED MOC relating to refurbished Emergency Department. \$3.1 million will be provided at end of year wash-up.'

No Calvary Project Control Group Committee meeting was held on 12 July 2013 and at no point had there been any agreement by the ACT Health Directorate to provide revenue funding for Calvary Health Care ACT Ltd for the new Emergency Department Model of Care at any committee meeting held between the two parties. The former Chief Financial Officer of Calvary Health Care ACT Ltd admitted fabricating the record at the end of July 2014 while the external audit was underway (refer to paragraph 3.19) in the statement they provided on tendering their resignation in September 2014.

It was therefore unreasonable according to AASB 118 to include any receivable for this item in the year ending 30 June 2014 financial statements as there was no prospect of 'economic benefits associated with the transaction flowing to the entity'. While this had been confirmed in writing, Calvary Health Care ACT Ltd did not respect the ACT Health Directorate's written determination and incorrectly recorded it as a receivable.

Those making the decision about the proposed inclusion of a receivable for the Emergency Department model of care in Finance One at year end, and therefore its inclusion in financial statements, also attended the Finance and Performance Committee on 26 November 2013 when the matter was closed, and the meeting on 24 June, the last of the financial year, at which point the matter had not been re-opened.

Source: ACT Audit Office

3.37 Following the identification of the falsified \$5.175 million in receivables and the submission of the written statement by the former Chief Financial Officer, the Little Company of Mary Health Care Ltd executive:

- brought in a Chief Financial Officer from another public hospital in the Little Company of Mary Health Care Ltd group to review the accounts and journal reversals; and
- commissioned a forensic audit from Deloitte on 19 September 2014.

## Correcting information and relodgement

3.38 The \$3.717 million 'employee entitlement obligation' receivable was detected and corrected before the *Calvary Health Care ACT Ltd 2014 Financial Report*<sup>21</sup> was lodged with the Australian Securities and Investments Commission<sup>22</sup> (ASIC) on 27 August 2014. This correction occurred prior to the resignation of the former Chief Financial Officer of Calvary Health Care ACT Ltd.

3.39 Entries in Finance One associated with \$5.175 million in receivables were subsequently identified and corrected, and the Little Company of Mary Health Care Ltd Board approved a revised *Calvary Health Care ACT Ltd 2014 Financial Report* on 22 October 2014. This was lodged with ASIC on 5 November 2015. This correction occurred after the resignation of the former Chief Financial Officer of Calvary Health Care ACT Ltd. Both the statements lodged on the 27 August 2014 and revised version lodged on 5 November 2014 had been audited and signed off by the external auditor.

3.40 In the relodged *Calvary Health Care ACT Ltd Financial Report 2014*, the statement of profit and loss identified<sup>23</sup> that:

This reassessment resulted in the de-recognition of certain revenue items totalling \$5.175 million due to lack of evidence to support recognition under AASB118 and an increase in the provisioning against trade receivables totalling \$1.306 million.

3.41 On 11 October 2014, the Little Company of Mary Health Care Ltd Chief Executive Officer released a media statement:

[...] the Little Company of Mary Health Care has reassured the Canberra community that Calvary Health Care Bruce will continue to deliver high quality and safe care to the community despite a disappointing financial outcome for 2013-14 ... Calvary has absorbed the budget overrun from last financial year, [and wants] to make it very clear that there is no impact for ACT taxpayers or the ACT Government.

## Calvary Health Care ACT Ltd financial reporting during 2013-14

3.42 The inclusion of the \$3.717 million receivable for an 'employee entitlement obligation' and the \$5.175 million for other receivables (incentive funding, palliative care specialist and Emergency Department model of care funding) in Finance One were subsequently corrected. This resulted in a 2013-14 year end Operating EBITDA deficit for Calvary Health Care ACT Ltd Public Hospital of \$9.451 million against expectations of a surplus of \$1.925 million. This is a significant change.

<sup>21</sup> The *Calvary Health Care ACT Ltd 2014 Financial Report* was prepared in accordance with the *Australian Charities and Not-For-Profits Commission Act 2012* (s60-10 to s60-60).

<sup>22</sup> *Corporations Act 2001* sets out (s292) who has to prepare a financial report, and how the report is to be prepared (s295 to s301) and its lodgement (s319) with the Australian Securities and Investments Commission (ASIC).

<sup>23</sup> Note 1, Calvary Health Care ACT Ltd financial statements for 2014, approved by the Calvary National Board 22 October 2014

3.43 The Audit Office examined the extent to which information provided to key executives and committees during 2013-14 indicated that Calvary Public Hospital was being managed in a manner that would lead to a major deficit.

### Reporting of financial position during 2013-14

3.44 Throughout 2013-14, the financial position of Calvary Health Care ACT Ltd was being presented through a range of financial reports to different fora, including:

- a monthly *Calvary Health Care ACT Ltd Financial Management Report*, provided to Calvary Health Care ACT Ltd executive meetings;
- a monthly *Calvary Health Care ACT Ltd Public Board Report*, provided to the Little Company of Mary Health Care Ltd National Director Public Hospitals; and
- monthly Little Company of Mary Health Care Ltd financial reports, extracts of which were reproduced in the *ACT Health Report*, provided to:
  - monthly Finance and Performance Committee meetings attended by ACT Health Directorate and Calvary Health Care ACT Ltd executives and officers; and
  - quarterly Calvary Network Committee meetings attended by ACT Health Directorate, Calvary Health Care ACT Ltd and Calvary National executives.

3.45 The former Chief Financial Officer of Calvary Health Care ACT Ltd was responsible for preparing written reports associated with Calvary Health Care ACT Ltd's financial position during 2013-14, with the assistance of the Calvary Health Care ACT Ltd Finance Team. The former Calvary Health Care ACT Ltd Chief Executive Officer presented the reports that contained incorrect financial information to different fora.

#### *Calvary Health Care ACT Ltd Financial Management Report*

3.46 The *Calvary Health Care ACT Ltd Financial Management Report* was a monthly financial report prepared by the Calvary Health Care ACT Ltd Finance Team and distributed to the Calvary Health Care ACT Ltd executive management team. In addition to a monthly revenue, expenses and surplus/deficit statement and balance sheet information, the report also provided analysis of key revenue and expense items and movements, as well as tracking against budget.

#### *Calvary Health Care ACT Ltd Public Board Report*

3.47 The *Calvary Health Care ACT Ltd Public Board Report* was a monthly report prepared in Word format by the Calvary Health Care ACT Ltd executive for the Little Company of Mary Health Care Ltd's National Director Public Hospitals. The report covered both financial and performance information relating to Calvary Health Care ACT Ltd public hospital services. Key financial information presented in the report included year-to-date revenue, Operating EBITDA and variance percentages against budget.

### ACT Health Report

- 3.48 The *ACT Health Report* was a monthly report in Excel format prepared by the Calvary Health Care ACT Ltd Finance Team. The *ACT Health Report* was based on extracts from the Little Company of Mary Health Care Ltd's monthly reports which relied upon data from Finance One.
- 3.49 The *ACT Health* report was presented to the Finance and Performance Committee and Calvary Network Committee and contained revenue, expenditure and Operating EBITDA contribution financial data that is consistent with nearly all other reports generated by Calvary Health Care ACT Ltd executives and the Finance Team and circulated to various fora during 2013-14 (refer to paragraph 3.56 for an exception to this).
- 3.50 Key information consistently conveyed through various financial reports throughout 2013-14 was that:
- the monthly financial position during 2013-14 was 'in balance' or was 'tracking to meet budgeted result for the end of the financial year';
  - each month's Operating EBITDA contribution during 2013-14 was the same as what had been budgeted for in July 2013; and
  - the 'in balance' position stated in reports was supported by financial data for the revenue, expenditure and Operating EBITDA contribution in the same reports.
- 3.51 The range of financial reports presented to the different fora was produced by Calvary Health Care ACT Ltd executives and officers from inaccurate data entered in Finance One by Calvary Health Care ACT Ltd officers. This incorrect information formed the basis of the financial reports presented to the different fora. The financial reports all identified that the monthly financial position during 2013-14 was 'in balance' and was 'tracking to meet budgeted result for the end of the financial year'.

### Shortcomings in in-year financial reporting

- 3.52 Ordinarily, reporting actual financial performance against budgeted financial performance is a useful control over the financial management and control of an organisation. Changes over time and variations in actual performance against budgeted performance can provide management and stakeholders with information on the management and control of an organisation. If necessary management and stakeholders can take corrective action.
- 3.53 The usefulness of Calvary Health Care ACT's regular financial reporting throughout 2013-14 was compromised by a number of factors including:
- the failure of the ACT Health Directorate and Calvary Health Care ACT Ltd to agree the final funding level for the year until very late in the year (refer to Chapter 2);
  - the failure of the ACT Health Directorate and Calvary Health Care ACT Ltd to maintain a reliable and transparent running sheet of all agreed funding at any point in time within the financial year (refer to Chapter 2); and

- the practice of preparing and relying on, knowingly or unwittingly, financial reports throughout the year on the basis of manipulated data in Finance One.

#### *Preparing reports on the basis of inaccurate data in Finance One*

3.54 Financial reports throughout 2013-14 were prepared on the basis of inaccurate information that was entered in Finance One. Calvary Health Care ACT Ltd officers and former executives asserted to the Audit Office that there were reasons that justified this, as it was one way of overcoming a constraint of the financial system and reporting requirements. This constraint derived from:

- the Little Company of Mary Health Care Ltd practice of establishing financial information and budgets in Finance One prior to the beginning of the financial year (a process referred to as 'locking in' the budget) and therefore prior to agreement with the ACT Health Directorate on actual funding and activity levels for the year; and
- the inability of Calvary Health Care ACT Ltd to present revised forecast budgets for expenditure and revenue in Finance One, due to technical limitations in the way Finance One was able to be used, and
- a lack of transparency in what revenue was legitimate to recognise.

3.55 While this was the case, rather than preparing monthly financial reports which provided an accurate and detailed narrative of financial performance, including against the initially identified budgeted revenue and expenditure, the Calvary Health Care ACT Finance Team, on the instruction of the former Chief Financial Officer of Calvary Health Care ACT, entered incorrect revenue accrual data which misrepresented financial performance. Accordingly, Calvary Health Care ACT Ltd financial reports for 2013-14 were prepared on the basis of incorrect financial data. This facilitated Calvary Health Care ACT Ltd reporting a monthly 'in-balance' position, on the basis that expected revenues would cover the expenditure that was being incurred.

#### **Reporting to the Finance and Performance Committee**

3.56 There is one exception, however, where reported revenue and expenditure was not consistent with reports drawn from data in Finance One; and that is in the information provided to the Finance and Performance Committee (April, May and June 2014) and Calvary Network Committee (June 2014). As noted in paragraphs 2.19 and 2.23, these committees include officers and executives from the ACT Health Directorate and Calvary Health Care ACT Ltd and the Little Company of Mary Health Care Ltd. The information on revenue and expenditure that was presented to these committees during the latter part of 2013-14 was different to that reported to other fora.

3.57 Table 3-3 shows the information maintained in Finance One, which was incorrect, and the financial information reported to the Finance and Performance Committee, which was also incorrect.

**Table 3-3 Revenue and expenditure data in Finance One compared with data reported to Finance and Performance Committee**

2013-14 year	Finance One data (\$ 000)			Finance and Performance Committee reports (\$ 000)		
Month	YTD Revenue (Gov't grant)	YTD Expense	YTD EBITDA	YTD Revenue (Gov't grant)	YTD Expense	YTD EBITDA
Mar-14	149 639 (141 290)	147 793	1 846	149 640 (140 691)	147 794	1 846
Apr-14	166 069 (156 581)	164 057	2 012	164 328 (154 140)	162 316	2 013
May-14	182 809 (172 306)	180 824	1 985	178 712 (167 509)	176 733	1 979
Jun-14	199 888 (187 923)	197 965	1 923	195 335 (181 970)	193 411	1 924

Source: ACT Audit Office, based on Calvary Health Care ACT Ltd financial reports 2013-14

3.58 An analysis of revenue and expenditure information in Finance One, which was incorrect, compared with information reported to the Finance and Performance Committee shows:

- in March 2014, year-to-date revenue and expenditure reported to the Finance and Performance Committee was comparable to information maintained in Finance One;
- between April 2014 and June 2014 year-to-date revenue and expenditure reported to the Finance and Performance Committee was different from information maintained in Finance One; and
- notwithstanding that revenue and expenditure information reported to the Finance and Performance Committee was different from that maintained in Finance One, the year to date Operating EBITDA figure reported to the Finance and Performance Committee was comparable to that maintained in Finance One.

3.59 In reports to the Finance and Performance Committee in the fourth quarter of 2013-14 and the Calvary Network Committee in June 2014, not only is total revenue understated compared to that in Finance One and all other reports at the time, but also the figure for the Government grant contribution towards total revenue was reduced. The reported June 2014 figure for Government grants was \$5.95 million lower than that reported elsewhere. The consequence of this is that the financial data on revenue, and in particular the Government grant component of revenue which was reported to the Finance and Performance Committee in the fourth quarter of 2013-14 and the Calvary Network Committee in June 2014 presented a financial position that was much closer to that which ACT Health Directorate had already agreed to.

3.60 Information presented to the Finance and Performance Committee in the fourth quarter of 2013-14 and the Calvary Network Committee in June 2014 was different from the information in Finance One. As the Finance and Performance Committee and Calvary Network Committee included representatives of the ACT Health Directorate, if the reported information had been accurate, they would have been in a better position to identify that the revenue data in Finance One was overstated and incorrect, given their knowledge of agreed funding for the Calvary Public Hospital.

3.61 Information in Finance One and reported to Calvary Health Care ACT Ltd and Little Company of Mary Health Care Ltd accurately reflected expenditure (which was higher than expected) but inaccurately and misleadingly overstated revenue, in order to portray an 'in-balance' position throughout the year. Information reported to the Finance and Performance Committee in the fourth quarter of 2013-14 and the Calvary Network Committee in June 2014 inaccurately reflected revenue and incorrectly understated expenditure, in order to maintain the budgeted EBITDA position.

### Signs of the deteriorating financial position in the 2013-14 financial year

3.62 While an 'in-balance' position was communicated in financial reports during 2013-14 based on the information in Finance One, there were signs in the same reports that an 'in-balance' position for Calvary Public Hospital was improbable due primarily to accelerated and eventual over recognition of revenues. The improbability of an 'in-balance' position is evident if other information in the monthly financial reports provided to executives is considered. These are:

- actual revenue versus budgeted revenue;
- actual expenditure versus budgeted expenditure;
- Operating EBITDA; and
- prepaid income in the balance sheet.

### Reporting Revenue

3.63 Calvary Health Care ACT Ltd monthly revenues principally comprise Government grant and non-Government revenue such as patient fees. Revenue from the ACT Government accounts for around 85 per cent of the Calvary Public Hospital's total revenue. Government grant funding is paid in advance into a 'prepaid income received'<sup>24</sup> account each fortnight as one 26<sup>th</sup> (1/26) of the initially estimated annual funding. Significant cash calls such as for annual insurance payments are usually advanced in addition to the fortnightly amount and that amount adjusted down accordingly. The funding sits in the 'prepaid income received' account as a 'liability' in the Calvary Health Care ACT Ltd balance sheet until it is 'earned' through activity, at which point it is recognised as revenue.

3.64 According to the Calvary Health Care ACT Ltd *Financial Reporting Policy* (undated), revenue should be recognised as 'earned' in Finance One, and therefore in the financial statements and reports derived from Finance One information, when reasonable to do so in accordance with accrual accounting principles.

3.65 During 2013-14 total revenue (that is revenue 'earned', year-to-date and for the month) was reported to the Calvary Network Committee, the Finance and Performance Committee and to executives at Calvary Health Care ACT Ltd and the Little Company of

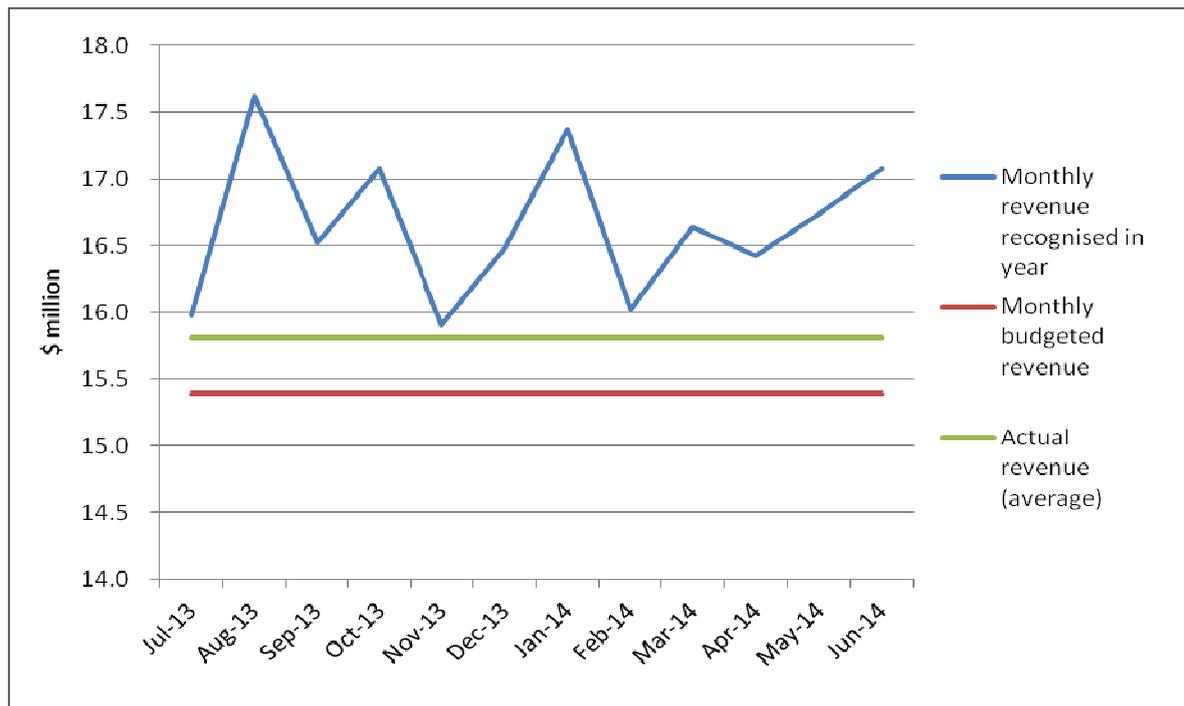
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<sup>24</sup> The actual account name within Finance One was the called the 'Deferred Income account' but was reported as the summary level in financial reports as 'Prepaid Income Received'.

Mary Health Care Ltd. While this permits comparison to the level of budgeted revenue, monthly trend data is more useful in identifying emerging over or under achievement of revenue targets and potentially, over or under recognition of 'earned' revenue. Monthly trends were not reported in 2013-14, and the narrative on budget versus actual data in these reports was inadequate.

- 3.66 Trend information taken from monthly financial reports was developed by the Audit Office and is shown in Figure 3-1.

**Figure 3-1 Total revenue recognised as 'earned' per month 2013-14**



Source: ACT Audit Office, based on information from Calvary Health Care ACT Ltd

- 3.67 Analysis of revenue that was reported in monthly financial reports throughout 2013-14 shows that revenue was being consistently reported over and above the monthly budgeted revenue. The consistent reporting of revenue higher than the monthly budgeted revenue warranted greater examination, discussion and comprehensive explanation in the monthly financial reports than occurred. While it is plausible that revenue recognised monthly during 2013-14 would be on average greater than the budgeted figure, there was no explanation provided for the scale of the variance.

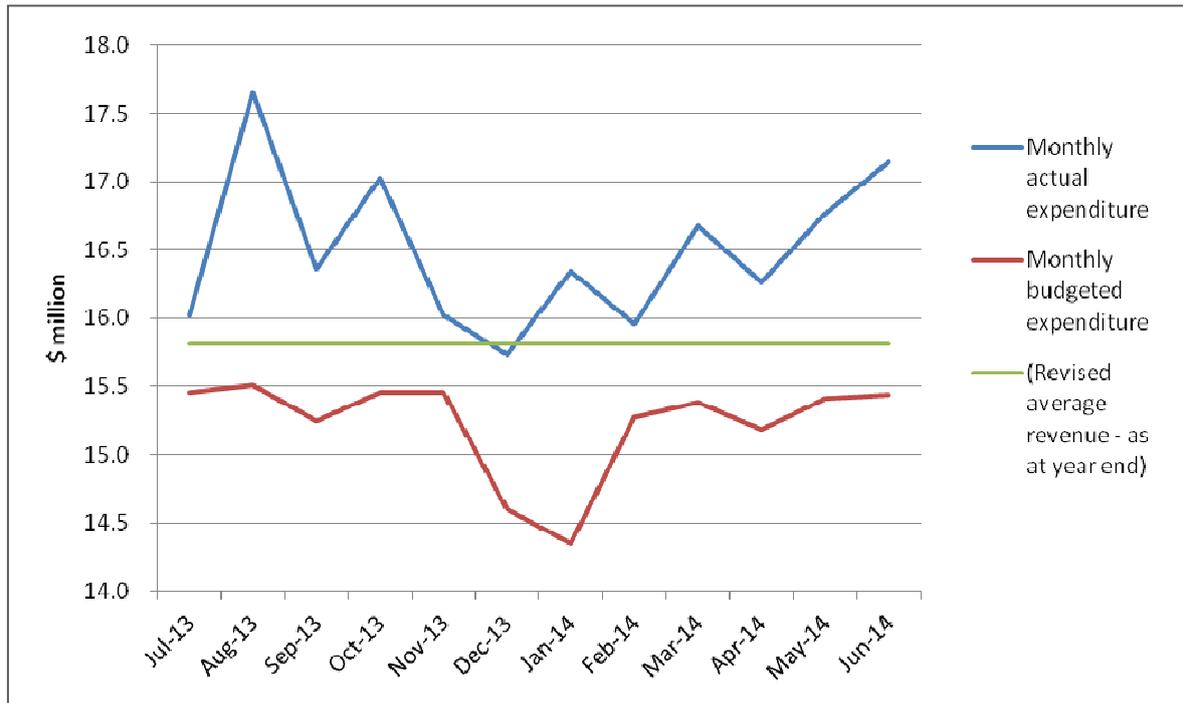
- 3.68 The level of total revenue recognised in monthly reports throughout 2013-14 (\$199.888 million) exceeded the budgeted revenue (\$184.675 million) by \$15.213 million, and exceeded the eventual level of total revenue reported in the corrected (22 October 2015) 2013-14 financial statements (\$189.720 million) by \$10.168 million. Although agreed funding had increased in year above the original budgeted amount of the Annual Performance Plan, there was a consistent pattern of over-recognition or premature recognition of revenue throughout 2013-14 beyond the total funding agreed by the ACT Health Directorate.

- 3.69 Identifying this early in the 2013-14 year was made more difficult in the absence of agreed funding from the ACT Health Directorate and an agreed running sheet (refer to paragraph 2.111) shared between the finance teams of the ACT Health Directorate and Calvary Health Care ACT Ltd.

### Reporting Expenditure

- 3.70 The Calvary Health Care ACT Ltd Finance Team prepared regular expenditure reports by division and by cost centre to Calvary Health Care ACT Ltd executives individually and at a consolidated level to the Calvary Health Care ACT Ltd Executive team as a whole. These reports identified expenditure in relation to each executive's area of responsibility, (e.g. medical services, clinical services, allied health) and highlighted divisional performance (actual vs budgeted, 2012-13 vs 2013-14 and year to date). The Calvary Health Care ACT Ltd Finance Team advised the Audit Office that addressing the aggregate position on expenditure and the relative contribution of each executive's area of responsibility was a matter for the Calvary Health Care ACT Ltd Executive team collectively, and that the Finance Team provided clear and unambiguous reports highlighting where expenditure pressures were not being addressed.
- 3.71 During 2013-14 consolidated total expenditure reports (year-to-date and for the month) were reported to the Calvary Network Committee, the Finance and Performance Committee and to Executive team meetings at Calvary Health Care ACT Ltd and executives of the Little Company of Mary Health Care Ltd. While the reports to these committees and groups provided financial information, as approved by the former Chief Financial Officer of Calvary Health Care ACT Ltd, on actual expenditure and compared it to the level of budgeted expenditure, the narrative accompanying the reports explaining any divergence between budgeted and actual figures was limited.
- 3.72 Monthly actual versus budgeted expenditure trend data was not reported to the Calvary Network Committee, the Finance and Performance Committee or the Executive teams at Calvary Health Care ACT Ltd and the Little Company of Mary Health Care Ltd in 2013-14. Trend information taken from monthly reports was developed by the Audit Office and is shown in Figure 3-2.

Figure 3-2 Expenditure reported monthly during 2013-14 (compared to revenue)



Source: ACT Audit Office, based on information from Calvary Health Care ACT Ltd

3.73 Analysis of expenditure that was reported in monthly financial reports to committees, to the Calvary Health Care ACT Ltd Executive team and to Little Company of Mary Health Care Ltd executives throughout 2013-14 shows that expenditure was consistently reported over and above the monthly budgeted expenditure with:

- actual expenditure for each month in 2013-14 being greater than that budgeted, by between four and 14 per cent per month; and
- total budgeted expenditure for 2013-14 of \$182.751 million being exceeded by \$15.214 million by 30 June 2014.

3.74 Monthly expenditure trend data as reported in 2013-14 did not facilitate the identification of the inaccurate financial information. Trend data subsequently developed and prepared by the Audit Office for 2013-14 shows that there was a consistent pattern of overspending compared to initially budgeted levels of expenditure. The consistent pattern of over-expenditure would have been more apparent had trend reporting on expenditure been provided alongside an updated forecast revenue budget. As approved revenue funding levels during the year were greater than initial budgeted revenue it was to be expected that there would be higher levels of activity and an increase in operating expenditure. However, the expenditure variance warranted greater examination, discussion and comprehensive explanation in reporting to the Calvary Health Care ACT Ltd Executive team and other committees than occurred.

- 3.75 Identifying inaccurate financial information early in the 2013-14 year was compounded by the absence of agreed funding from the ACT Health Directorate and an agreed running sheet (refer to paragraph 2.111) shared between the finance teams of the ACT Health Directorate and Calvary Health Care ACT Ltd.

*Implementation of a rectification plan to control expenditure*

- 3.76 By October 2013 there was a recognition by the Calvary Health Care ACT Ltd executive and by Calvary Health Care ACT Ltd Finance Team staff of the need for additional measures to control expenditure. For example, the content of emails between Calvary Health Care ACT Ltd Finance Team staff and the Calvary Health Care ACT Ltd Chief Financial Officer and other executives indicated a \$7.46 million gap had been identified between the initial budgeted expenditure and the full year forecast of expenditure for the Doctors cost centre, based on actuals for the first five months.
- 3.77 A rectification plan was included in the monthly financial management report presented to the Calvary Health Care ACT Ltd executive meeting on 24 October 2013. Information provided to Calvary Health Care ACT Ltd executives by the Calvary Health Care ACT Ltd Finance Team in October 2013, which accompanied the rectification plan, unequivocally highlighted that expenditure was outstripping projected revenues for 2013-14. Advice from Calvary Health Care ACT Ltd Finance Team staff to the former Chief Executive Officer and former Chief Financial Officer of Calvary Health Care ACT Ltd at the time was that the financial position was unsustainable.
- 3.78 The implementation of the plan was intended to achieve cost savings of \$5.128 million during the remainder of the year and achieve an increase in revenue of \$1.75 million, improving Calvary Public Hospital's financial position by \$6.878 by June 2014 as part of a plan to balance the budget. The basis for identifying the forecast gap between future revenue and expenditure was not presented in financial management reports.
- 3.79 Monthly financial management reporting of the rectification plan through to 30 June 2014 attributed \$4.462 million to savings and \$1.515 million to revenue increases identified as part of the rectification plan. Without the implementation of the rectification plan Calvary Public Hospital expenditure would have been significantly larger. The rectification plan appears to have been partially effective, according to financial management report summaries, but was not fully effective in controlling expenditure and bringing expenditure into line with revenue.

**Operating EBITDA (Earnings Before Interest, Tax, Depreciation and Amortisation)**

- 3.80 Operating EBITDA provides one measure of profitability, as it relates to the difference between total revenue and total expenditure for a period. Operating EBITDA is used by the Little Company of Mary Health Care Ltd executive and Board, and by Calvary Health Care ACT Ltd and ACT Health Directorate executives as a Key Performance Indicator. It is reported monthly and at year end in financial management reports and the financial

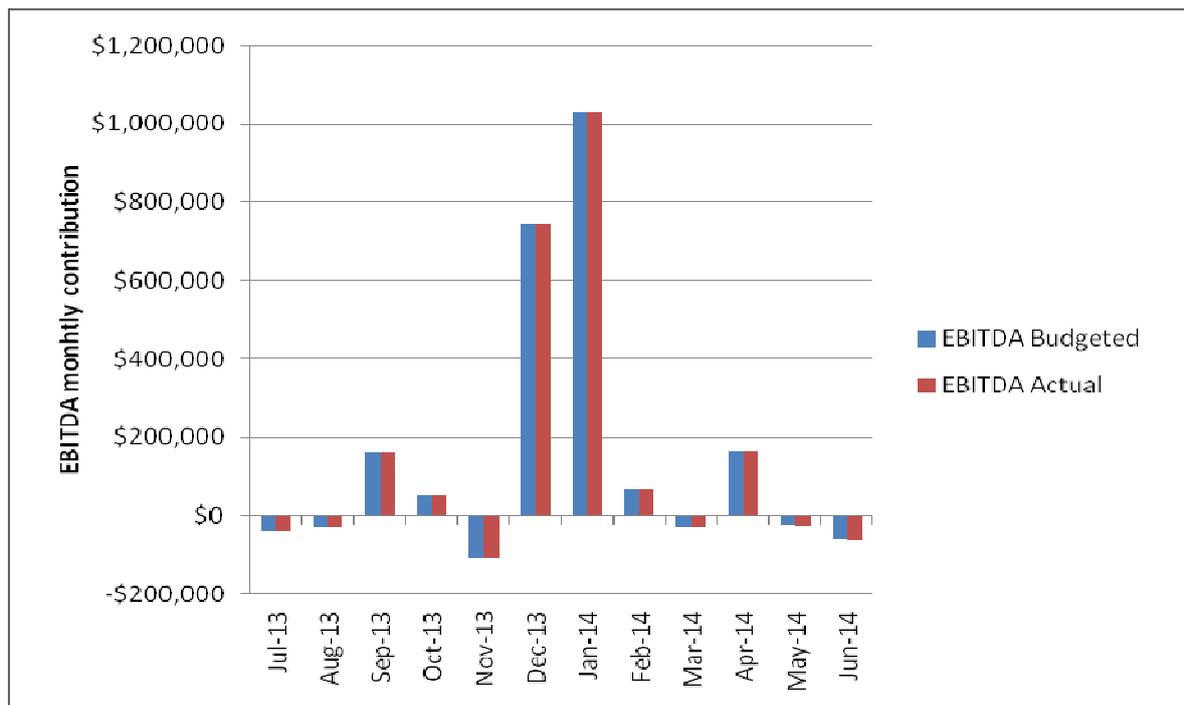
statements forming part of annual Financial Reports. It is reported in the consolidated accounts for Calvary Health Care ACT Ltd, and separately for Calvary Public Hospital.

3.81 The Little Company of Mary Health Care Ltd budget instructions to hospitals and service providers in its group states:

Public Hospitals will be expected to deliver an Operating EBITDA result from the current year forecast and an Operating EBITDA result on their Public Health Service Agreements to at least the value of National Office charges. They should budget to be better than break even at an operating level on both general and special purpose funds.

3.82 The initial budget (July 2013) for Calvary Public Hospital established an Operating EBITDA contribution of \$1.924 million (1.04 per cent) on an initial revenue budget of \$185.675 million for the 2013-14 year. During 2013-14 monthly financial reports for the Calvary Public Hospital and for the Little Company of Mary Health Care Ltd Executive teams, prepared from information in Finance One, reported Operating EBITDA. Figure 3-3 shows the monthly Operating EBITDA contribution (budgeted and actual) for Calvary Public Hospital for 2013-14, as reported in monthly financial reports.

**Figure 3-3 Monthly Operating EBITDA contribution reported (budget and actual)**



Source: ACT Audit Office, based on information from Calvary Health Care ACT Ltd (prior to falsified receivables being identified)

3.83 Analysis of Operating EBITDA that was reported in monthly financial reports throughout 2013-14 shows that the actual Operating EBITDA contribution for the Calvary Public Hospital was exactly the same as the budgeted Operating EBITDA contribution for every month during 2013-14. This indicates that each month's surplus or deficit, predicted when the budget was set prior to the beginning of the year, was achieved exactly, every month of the year. In the absence of other information, reporting each month a zero variance from the budgeted Operating EBITDA strongly indicates that costs are highly

controllable and are being tightly controlled and/or revenue streams are flexible and the earning of revenue takes place in a very timely manner. Neither of these scenarios is a likely explanation for a public hospital. The accompanying narrative in financial reports did not state how exactly an 'on budget' Operating EBITDA result was being achieved each and every month.

3.84 Throughout 2013-14 Calvary Public Hospital expenditure was continuously exceeding initially budgeted expenditure. Additional revenue accruals were entered in Finance One by the Calvary Health Care ACT Ltd Finance Team staff on the basis of instruction by the former Calvary Health Care ACT Ltd Chief Financial Officer. The additional revenue accrual amounts entered on a monthly basis sought to balance monthly revenue against monthly expenditure and, accordingly, achieved an 'in balance' monthly Operating EBITDA result, which matched the budgeted Operating EBITDA result.

3.85 In 2013-14 the Little Company of Mary Health Care Ltd National Director Public Hospitals received three types of monthly financial report that included data on Operating EBITDA (budget to actual) at the Calvary Public Hospital. However trend data was not presented in all report formats and accompanying narrative was of limited use in providing information on performance. For example May 2014 report stated:

The Operating EBITDA for the month of May resulted in a Deficit of \$0.026m, against a budget Deficit of \$0.026m. Forecast YTD EBITDA is a Surplus of \$1.924m in line with budget.

3.86 Operating EBITDA received priority attention<sup>25</sup> in monthly reports to the Little Company of Mary Health Care Board during 2013-14. However it was reported only one month at a time. While one month's zero variance on Operating EBITDA may not necessarily have been identified as remarkable, 12 months' zero variance is likely to have attracted attention, regardless of knowledge of expenditure. Had trend data been available, this should have led to questions about the accuracy of reported revenue.

3.87 Annual Performance Plans developed each year for Calvary Health Care ACT Ltd identify a single financial Key Performance Indicator to 'achieve agreed financial position (EBITDA) within 1 per cent'. Accordingly, it is appropriate that the ACT Health Directorate and the Little Company of Mary Health Care Ltd executive should monitor Operating EBITDA. However, trend information associated with EBITDA results was not presented in a manner that facilitated an understanding of what was occurring, and there was a lack of supporting explanatory narrative and accompanying revenue and expenditure information, which meant that the ACT Health Directorate and the Little Company of Mary Health Care Ltd executive did not receive sufficient information on which to readily review Calvary Health Care ACT Ltd's financial performance.

3.88 During 2013-14 the Calvary Health Care ACT Ltd's Chief Executive Officer and Chief Financial Officer at that time were required by the Little Company of Mary Health Care Ltd Chief Financial Officer, on a monthly basis, to sign off on attestations. These signed and

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<sup>25</sup> Page 1 of the Group report, and pages 14 and 15 of 16 for individual hospital campuses in the Board reports (February and March 2014) prepared by the Little Company of Mary Health Care Ltd's Chief Financial Officer

dated attestations included that balance reconciliations had been undertaken and that 'no revenue has been accrued where it is not probable that future economic benefits will flow to the service'. These attestations were relied upon by the Little Company of Mary Health Care Ltd's Chief Financial Officer. The June 2014 attestation was signed by the former Chief Executive Officer and former Chief Financial Officer of Calvary Health Care ACT Ltd on 10 July 2014.

*Financial management, independent opinion – Operating EBITDA*

3.89 The Little Company of Mary Health Care Ltd Executive team has consistently advised the Audit Office<sup>26</sup> throughout the course of this audit that a zero variance between budgeted and actual Operating EBITDA each month was not viewed as improbable or as a warning sign since:

Public hospitals are paid for activity they provide. As a [not-for-profit] organisation it is Calvary's obligation to ensure [it is] paid for the activity [it provides] and [it does not find itself] funding activity [it is] not compensated for by the jurisdiction ...

... there [should be] a nil variance or close to that unless it had been raised with [the Little Company of Mary Health Care Executive] that because of a particular issue that this was not reasonable or obtainable.

Nil variance to budget signalled (in combination with other factors) that the hospital was managing its funding and activity.

...

As previously explained, Operating EBITDA is not determined and then revenue and expenditure is adjusted to the Operating EBITDA level.

Public hospitals manage their outcomes very close to budget. The close to budget outcomes [are] normal. There may be adjustments towards the end of the financial year depending on activity levels and other funding negotiations with the government but this is usual to operate close to budget.

3.90 The Audit Office sought an independent opinion from Bob Sendt of Bob Sendt & Associates on this matter (analysis to support this opinion is in Appendix B). Mr Sendt advised that it is correct to identify that:

... repeated monthly results of zero variance on budgeted Operating EBITDA are improbable; and

... it is unlikely that in a public hospital 'costs are highly controllable and are being tightly controlled and/or revenue streams are flexible and the earning of revenue takes place in a very timely manner' and [that this] is a sufficient explanation as to why zero variance is improbable.

<sup>26</sup> In written submissions from the Little Company of Mary Health Care Ltd on 12 June 2015, 2 December 2015 and 7 March 2016

3.91 Furthermore Mr Sendt concluded that:

The Little Company of Mary Heath Care Ltd [assertions] that continuous monthly reporting of zero variance of budgeted Operating EBITDA is unsurprising do not have merit; and

The Little Company of Mary Health Care Ltd [assertions] are not of sufficient merit to place doubt, to counterbalance or to overshadow the current reported position that zero variance on budgeted Operating EBITDA is improbable and should have been an early warning and attracted closer attention.

3.92 The Little Company of Mary Health Care Ltd advised that:

[The Little Company of Mary Health Care Ltd] accounts are externally audited by an international Big 4 Accounting Firm each year who also provide a management controls letter and the recording and use of EBITDA as a key financial metric of operating performance has not been identified as an issue.

3.93 The Little Company of Mary Health Care Ltd also advised that the independent opinion provided by Mr Sendt 'has been made without an understanding/briefing of the timing and quantum of the budgeting and appropriations regime in the ACT', and without a 'full understanding of the financial relationship'.

3.94 Neither the Audit Office nor Mr Sendt considers that the 'budgeting and appropriations regime in the ACT' or 'the financial relationship' are directly relevant to the issue. The Audit Office therefore accepts the advice provided (refer to Appendix B) that:

[The] objective of achieving a financial result close to a particular desired outcome (whether measured in EBITDA or other terms) should give rise to close monitoring of what is being reported. That the figures reported consistently showed the entity was on track to achieve that result - with absolutely no variation - should have raised doubts in the minds of those reading the reports, and led to rigorous questioning of those preparing and presenting them.

### Prepaid income received in balance sheet reports

3.95 While total revenue, total expenditure and Operating EBITDA were stated in monthly revenue and expense summary reports (similar to monthly profit and loss statements), monthly balance sheet reports drawn from Finance One also provided information that arguably warranted closer scrutiny during 2013-14. The monthly balance for the 'prepaid income received' account was contained in the balance sheet information that was provided in monthly reports to the Finance and Performance Committee, and to Calvary Health Care ACT Ltd and Little Company of Mary Health Care Ltd executives.

3.96 As discussed in paragraph 3.63, Calvary Health Care ACT Ltd monthly revenues principally comprise Government grant and non-Government revenue such as patient fees. Revenue from the ACT Government is paid in advance into a 'prepaid income received'<sup>27</sup> account for Government grant funding each fortnight as one 26<sup>th</sup> (1/26) of the initially estimated annual funding, plus adjustments. The funding then sits as a 'liability' in the Calvary Health Care ACT Ltd balance sheet until it is 'earned' through activity, in which case it is

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<sup>27</sup> The actual account name within Finance One was the called the 'Deferred Income account' but was reported at the summary level in financial reports as 'Prepaid Income Received'.

recognised as revenue. Once earned it is debited from the 'prepaid income received' account and recorded as Government grant income. On the basis that Calvary Health Care ACT Ltd cannot recognise more revenue than the agreed funding level paid, the account should be in credit or zero, other than in the situation of temporary debit balances due to timing differences between receiving funding payments and recognising revenue.

3.97 Table 3-4 shows the balance of the 'prepaid income received' account for Government grant funding in Finance One for Calvary Health Care ACT Ltd between February 2014 and June 2014.

**Table 3-4 Government grant 'Prepaid income received' account balance for Calvary Health Care ACT Ltd (February 2014 to June 2014)**

Month during 2013-14 year	Prepaid income received' account balance (Finance One)
February 2014	+ \$1 139 124
March 2014	- \$1 332 036
April 2014	- \$3 345 123
May 2014	- \$5 805 996
June 2014	\$0

Source: ACT Audit Office, based on information from Calvary Health Care ACT Ltd

3.98 The 'prepaid income received' account for Calvary Health Care ACT Ltd's in Finance One primarily relates to ACT Government grant funding. An analysis of this account between February 2014 and June 2014 shows that:

- between March 2014 and May 2014 the amounts debited from the account and recognised as Government grant revenue were more than that which had been received as grant funding from the ACT Health Directorate. The account, which should ordinarily be in credit, had an increasing debit balance over this period;
- by May 2014, the account was in deficit by \$5.806 million. This reflected that \$5.806 million more revenue had been recognised as Government grant revenue by May 2014 than actual funds received from the ACT Health Directorate; and
- by 30 June 2014, the balance of the account had been reduced to zero once the falsified receivables (refer to paragraph 3.3) had been created. A debit balance for this account would have been problematic for the purposes of the 2013-14 financial statements audit.

3.99 As outlined above, during 2013-14 the Calvary Health Care ACT Ltd's Chief Executive Officer and Chief Financial Officer at that time were required by the Little Company of Mary Health Care Ltd Chief Financial Officer, on a monthly basis, to sign off on attestations. These attestations covered balance sheet items including the prepaid income account, and that no revenue had been accrued where it is not probable that future economic benefits will flow to Calvary Health Care ACT Ltd.

## Inaccurate information entered in the financial management system (Finance One)

- 3.100 As discussed in the preceding paragraphs, an 'in-balance' financial position for Calvary Public Hospital was erroneously and misleadingly reported throughout 2013-14 to the ACT Health Directorate and to the Little Company of Mary Health Care Ltd executive.
- 3.101 By October 2013, Calvary Health Care ACT Ltd records and Audit Office interviews with relevant individuals indicate that the Calvary Health Care ACT Ltd executive and the Calvary Health Care ACT Ltd Finance Team were aware of the growing gap between revenue and expenditure and the risk that this posed to the financial performance of Calvary Health Care ACT Ltd. However Calvary Health Care ACT Ltd executives and members of the Calvary Health Care ACT Ltd Finance Team advised the Audit Office that the former Chief Finance Officer and former Chief Executive Officer of Calvary Health Care ACT Ltd gave consistent and sustained assurances that sufficient additional revenue was being negotiated that would close the gap by the end of the year.
- 3.102 The Audit Office examined the mechanisms by which revenue was brought to account during the year in Finance One. Consideration was given as to what, how and when entries were made in Finance One and who was responsible for making the entries.

### Revenue booking in Finance One

- 3.103 Calvary Health Care ACT Ltd Finance Team staff advised that during 2013-14 the way that revenue each month was recognised or 'earned' in Finance One was through an unwritten process that was discussed with the former Chief Financial Officer of Calvary Health Care ACT Ltd. The Audit Office's understanding of the process is as follows:

**Step 1** - cash funding received was recorded in a 'prepaid income received account'. This is a balance sheet account that was used in accounting for funding from the ACT Government and others, and typically is in credit before the revenue is earned;

**Step 2** - revenue was drawn from the 'prepaid income received account' in line with monthly forecast revenue as updated throughout the financial year. It was booked in a 'government grant income account', which is part of the 'profit and loss' reporting. The revenue forecast was based on the original funding level but was influenced to some degree by activity levels in terms of Cost Weighted Separations;

**Step 3** - known and quantifiable additional revenue items not included in the original forecast but included in the running sheet e.g. additional Government grant income for increases in birth activities, were first recorded in the 'prepaid income received account' and then booked in the 'government grant income account' according to activity levels achieved;

**Step 4** – the interim results would be provided to the former Chief Finance Officer of Calvary Health Care ACT Ltd at that point, who would then direct if necessary, that the level of revenue in the 'government grant income account' was then further adjusted.

This adjustment was recorded as a matching journal entry in both the 'prepaid income received account' and the 'government grant income account'. The scale of the entry amount was determined by any shortfall in revenue necessary to achieve the budgeted Operating EBITDA for the month; and

**Step 5** – the 'prepaid income received account' reached a balance of zero at year end reflecting that all funding received had been transferred from the 'prepaid income received account' to the 'government grant income account'. Any additional shortfall in revenue necessary to achieve the budgeted Operating EBITDA for the end-of-year position was then achieved by recording matching end of year journals in the sundry debtors account and in the 'government grant income account'.

- 3.104 Steps 2 to 3 ensure that revenue is recognised as earned, at least in part, according to activity levels achieved in accordance with accrual-based accounting principles and accounting standards. However Step 4 and Step 5 bring revenue to account without a basis in financial accounting principles or standards. The implementation of Step 4 and Step 5 leads to the creation of journal entries according to the need to provide sufficient Operating EBITDA to achieve the budgeted figure for the month and year end.
- 3.105 Such an action compromises the integrity of any in-year statement of 'profit and loss'<sup>28</sup> that uses this method as it subordinates the revenue recognition process, including any necessary test of reasonableness, to the achievement of a predetermined level of Operating EBITDA contribution. It subordinates the acceptance of accounting standards and policies to the achievement of a management objective.
- 3.106 When this process is followed, in-year financial statements, based on financial data drawn from Finance One, are unable to satisfy:
- the requirements of monthly attestations (refer to paragraph 3.99) where a test of reasonableness of accruals is expected; or
  - Calvary Health Care ACT Ltd financial policies such as the *Financial Reporting Policy* which requires monthly financial statements to be 'prepared in accordance with the Australian Accounting Standards', to provide 'detailed information to senior management and other stakeholders on the financial position of Calvary Public Hospital', and that statements 'shall present fairly the financial position' requiring 'the faithful representation of the effects of transactions'.
- 3.107 In addition annual financial statements prepared from financial data in Finance One which has been entered into the system following this process:
- can no longer be relied on to achieve their objective, as outlined in Australian Accounting Standards Board AASB101, that is
    - ... to provide information about the financial position, financial performance and cashflows of an entity that is useful (to a wide range of users) in making economic decisions (section 9); and

<sup>28</sup> In Little Company of Mary Health Care Ltd monthly financial management reports this is called a 'revenue and expense summary'.

- risk breaching section 296 and section 297 of the *Corporations Act 2001* that state:
  - ... the Financial Report for a financial year must comply with the accounting standards (s296 (1)); and
  - ... the financial statement and notes for a financial year must give a true and fair view of the financial position and performance of the company (s297(a)).

### In-year balancing sums

3.108 Records from Finance One for 2013-14 for Calvary Health Care ACT Ltd show that journal entries were created in the 'prepaid income received account' on a regular basis following the principles of Step 4 in the revenue booking process (refer to paragraph 3.103). These records are immediately identifiable as they are named 'Adjustment to funding - bring in line to journal/agree with MTD [month to date] position', that is, they are referred to as 'balancing' sums.

3.109 Table 3-5 shows the journal entries made in the 'prepaid income received account' throughout 2013-14 which represent a means by which to incorrectly overstate revenue and obscure overspending in 2013-14.

**Table 3-5 Balancing sums in 'prepaid income received account' during 2013-14**

Date	Period	Amount (\$)	Narrative
07/08/2013	1	290 479	Adjustment to funding - bring in line to Journal CL 34 Jul-13
07/08/2013	1	253 700	Adjustment to funding to agree MTD posit Journal CL 34 Jul-13
06/09/2013	2	232 675	Adjustment to funding - bring in line to Journal CL 34 Aug-13
06/09/2013	2	1 809 597	Adjustment to funding to agree MTD posit Journal CL 34 Aug-13
08/10/2013	3	883 000	Adjustment to funding - bring in line to Journal CL 34 Sep-13
07/11/2013	4	1 540 000	Adjustment to funding - bring in line to Journal CL 34 Oct-13
06/12/2013	5	511 653	Adjustment to funding - bring in line to Journal CL 34 Nov-13
15/01/2014	6	1 188 372	Adjustment to funding - bring in line to Journal CL 34 Dec-13
10/02/2014	7	1 769 422	Adjustment to funding - bring in line to Journal CL 34 Jan-14
07/03/2014	8	499 979	Adjustment to funding to agree MTD posit Journal CL 34 Feb-14
07/04/2014	9	1 226 411	Adjustment to funding - bring in line to Journal CL 34 Mar-14
07/05/2014	10	768 337	Adjustment to funding - bring in line to Journal CL 34 Apr-14
06/06/2014	11	1 028 675	Adjustment to funding - bring in line to Journal CL 34 May-14
06/06/2014	11	187 449	Adjustment to funding to agree MTD posit Journal CL 34 May-14

Source: ACT Audit Office, based on information from Calvary Health Care ACT Ltd

3.110 The former Chief Financial Officer of Calvary Health Care ACT Ltd advised that they provided written instructions by email to Calvary Health Care ACT Ltd Finance Team staff to create these entries. Calvary Health Care ACT Finance Team staff advised that many discussions took place between them and the former Chief Financial Officer, on a weekly basis at times, during 2013-14 on this matter, and that the former Chief Financial Officer

consistently provided verbal assurance that additional revenue would be provided by the ACT Health Directorate before year end and that this would bring revenue and expenditure into the 'in-balance' position that was already being reported.

- 3.111 The former Chief Financial Officer advised the Audit Office that they in turn received verbal directions from the former Chief Executive Officer of Calvary Health Care ACT Ltd. No evidence has been identified that the former Chief Executive Officer of Calvary Health Care ACT Ltd provided any written direction as to the strategy or mechanism for the false reporting of a balanced position in year.
- 3.112 Analysis of journal entries made in the 'prepaid income received account' in Finance One for Calvary Health Care ACT Ltd throughout 2013-14 shows:
- a total of 14 entries were made in the 'prepaid income received account' totalling \$12.189 million for the year. One to two entries were made each month for sums of between \$187 000 and \$1.8 million; and
  - entries that were made were identified as 'balancing sums' and were consistently titled 'Adjustment to funding - bring in line to journal/agree with MTD [month to date] position'.
- 3.113 The inaccurate information entered in the Finance One system was created to offset overspending during the period and derive an Operating EBITDA position that was on budget. The additional revenue accrual amounts entered on a monthly basis sought to balance monthly revenue against monthly expenditure and, accordingly, achieved an 'in balance' monthly Operating EBITDA result, which matched the budgeted Operating EBITDA result. The entries had no basis in accounting principles or standards and had the effect of obscuring the true financial position of Calvary Public Hospital.

### Year-end balancing sums

- 3.114 The five-step revenue booking process (refer to paragraph 3.103) also provides for what happened at year end when the over or under recognition of revenue resulting from the application of Step 4 needed to be reconciled with actual revenues received and receivables as recorded and audited in year-end financial statements.
- 3.115 The former Chief Financial Officer of Calvary Health Care ACT Ltd advised that they provided written instructions by email to Calvary Health Care ACT Ltd Finance Team staff to sign off on the creation of journal entries in the Sundry Debtors account at the end of 2013-14. Calvary Health Care ACT Ltd Finance Team staff also confirmed that they acted on the written and verbal instructions of the former Chief Financial Officer of Calvary Health Care ACT Ltd. These entries were made to match the level of over-recognised revenue during the year (refer to Table 3-5).

3.116 The former Chief Financial Officer advised the Audit Office that they in turn received verbal directions from the former Chief Executive Officer of Calvary Health Care ACT Ltd. No evidence has been identified that the former Chief Executive Officer of Calvary Health Care ACT Ltd provided any written direction as to the strategy or mechanism for the false reporting of a balanced position at year end.

3.117 Table 3-6 shows journal entries in the Sundry Debtors account, which were made in early July 2014. The journal entries include:

- the \$5.175 million in receivables (incentive funding, palliative care specialist and Emergency Department model of care funding) inappropriately reported as a receivable at the end of 2013-14 (items 1-4);
- the \$3.717 million receivable for an 'employee entitlement obligation' (item 5); and
- an amount that was incorrectly classified as Government grant income that should have been recognised as capital income (item 6).

**Table 3-6 Year-end entries in Sundry Debtors account 2013-14**

Item	Description	30/06/2014
1	Receivable for 2012/13 Incentive Funding (entered 3 July, reversed 24 Sept 2014)	651 105
2	Receivable for 2013/14 Incentive Funding (entered 9 July, reversed 24 Sept 2014)	992 000
3	Palliative Care Specialist working at TCH (entered 3 July, reversed 24 Sept 2014)	350 000
4	Receivable for Emergency model of care (entered 9 July, reversed 24 Sept 2014)	3 182 000
5	2002 Staff Entitlement Claim from ACT (entered 9 July, reversed 31 July 2014)	3 717 000
6	Recognise Capital Income Rec'd (reversed 24 Sept 2014)	1 276 826
	<b>Total</b>	<b>10 168 931</b>

Source: ACT Audit Office, based on information from Calvary Health Care ACT Ltd

3.118 Discussions between Calvary Health Care ACT Ltd and the ACT Health Directorate had taken place in relation to items identified in four of the six entries. However these discussions had either not concluded or had concluded in writing that no funding was due. Accordingly, there was no basis in accounting principles and standards for these entries, particularly where the creation of entries was directly contrary to a written decision from the ACT Health Directorate not to provide funding (refer to Case Study 2 and 3).

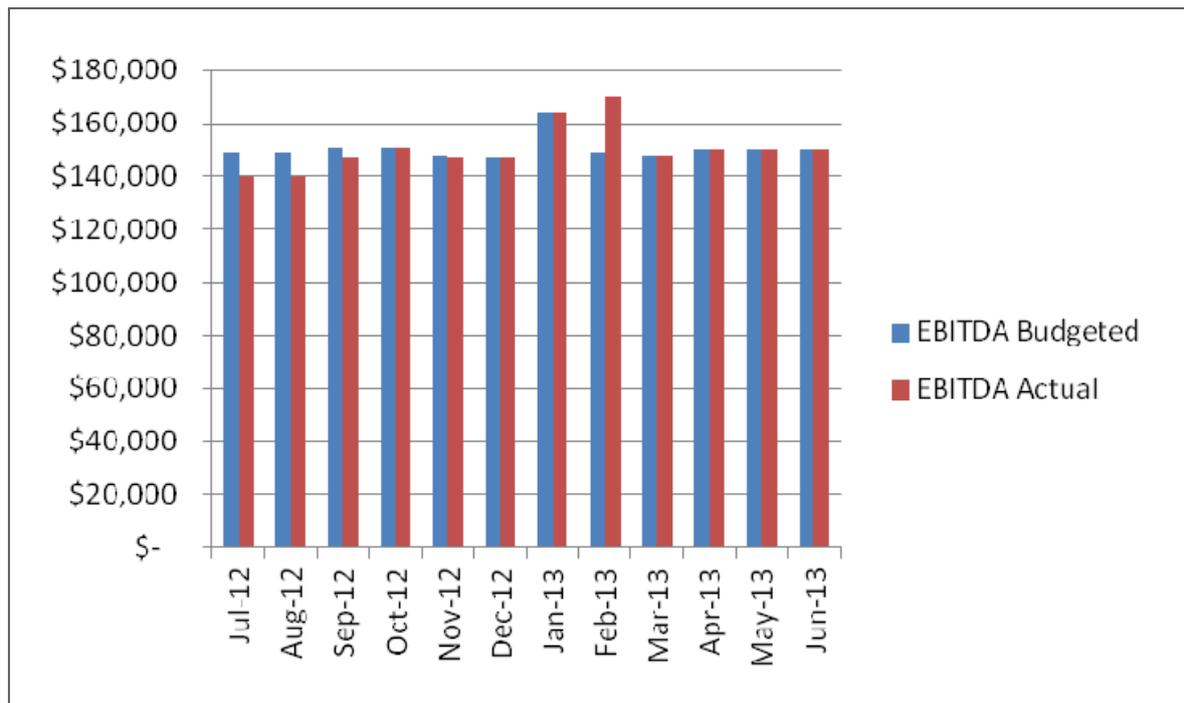
3.119 The Little Company of Mary Health Care Ltd has advised the Audit Office that discussions frequently took a significant amount of time and that:

... In some circumstances activity has been undertaken by Calvary [Health Care ACT Ltd] on the basis of these discussions from the perspective of seeking to continue to operate an ongoing health service ... while issues are resolved ... Moving forward activity will not be undertaken unless confirmed documented agreement to the activity is obtained.'

## Entry of inaccurate information during 2012-13

- 3.120 This performance audit primarily focused on the inappropriate financial practices that occurred throughout 2013-14. However, in undertaking this audit it became apparent that inappropriate entry of information in Finance One also occurred in 2012-13.
- 3.121 Figure 3-4 shows Calvary Health Care ACT Ltd's monthly Operating EBITDA contribution during 2012-13, as reported in financial reports to Calvary Health Care ACT Ltd executives, and to ACT Health Directorate and Little Company of Mary Health Care Ltd executives.

**Figure 3-4 Monthly Operating EBITDA contribution reported (budget and actual)**



Source: ACT Audit Office, based on information from Calvary Health Care ACT Ltd

- 3.122 Analysis of Operating EBITDA that was reported in monthly financial reports throughout 2012-13 shows that the actual Operating EBITDA contribution for the Calvary Public Hospital was exactly the same as the budgeted Operating EBITDA contribution in seven of the last nine months of 2012-13, i.e. a zero variance was reported between budgeted and actual Operating EBITDA. This indicates that regular revenue adjustment was likely to have been taking place from October 2012 onwards, using balancing sums in 2012-13, as happened in 2013-14.

### *In-year balancing sums*

- 3.123 Information in Finance One for Calvary Health Care ACT Ltd, for 2012-13, shows that journal entries were created in the 'prepaid income received account' on a regular basis, similar to the practice that occurred in 2013-14. These records are immediately identifiable as they are named 'Adjustment to funding – ACT Grant journal/to agree MTD position', i.e. they are referred to as 'balancing' sums.

3.124 Calvary Health Care ACT Ltd Finance Team staff advised that, similar to 2013-14 practices, these entries were made in the Finance One system, and that this was in order to offset under or overspending during the period and to derive an Operating EBITDA position that was presented in reports as 'on budget'.

3.125 Table 3-7 shows the journal entries made in the 'prepaid income received account' throughout 2012-13, which represent a means by which to incorrectly overstate revenue for 2012-13.

**Table 3-7 Balancing sums in 'prepaid income received account' during 2012-13**

Date	Period	Amount (\$)	Narrative
07/09/2012	2	1 447 000	Adjustment to funding to agree MTD posi Journal CL 34 Aug-12
09/10/2012	3	1 341 000	Adjustment to funding to agree MTD posi Journal CL 34 Sep-12
07/11/2012	4	479 000	Adjustment to funding to agree MTD posi Journal CL 34 Oct-12
07/12/2012	5	939 000	Adjustment to funding to agree MTD posi Journal CL 34 Nov-12
14/01/2013	6	1 322 875	Adjustment to funding to agree MTD posi Journal CL 34 Dec-12
07/02/2013	7	- 285 000	Adjustment to funding - ACT Grant Journal CL 34 Jan-13
07/03/2013	8	- 308,000	Adjustment to funding - ACT Grant Journal CL 34 Feb-13
07/03/2013	8	21,000	Adjustment to funding - ACT Grant - bal Journal CL 34 Feb-13
08/04/2013	9	- 3,958,458	Adjustment to funding - ACT Grant March Journal CL 34 Mar-13

Source: ACT Audit Office, based on information from Calvary Health Care ACT Ltd

3.126 Analysis of journal entries made in the 'prepaid income received account' in Finance One for Calvary Health Care ACT Ltd throughout 2012-13 shows:

- a total of nine entries were made in the 'prepaid income received account' totalling \$0.998 million for the year. One to two inaccurate entries were made each month for sums of between + \$1.4467 million and - \$3.958 million; and
- inaccurate entries that were made were identified as 'balancing sums' and were consistently titled 'Adjustment to funding - bring in line to journal/agree with MTD [month to date] position'.

3.127 During 2012-13 amounts were both credited to, and debited from, this account, indicating that, unlike 2013-14, there were times when under recognition of revenue as well as over recognition was taking place. For the first seven months of the year income was being increased to meet the agreed month end position. It is noted that during June 2013 discussions were ongoing with the ACT Health Directorate regarding a number of funding issues and with the provision of additional funding provided to Calvary Health Care ACT Ltd by the ACT Health Directorate towards the end of the 2012-13 financial year for \$4.015 million, this appeared to create the need to reduce the level of funding recognised to again meet the expected month end position.

3.128 As with 'prepaid income received account' entries in 2013-14, these nine entries had no basis in accounting principles and standards, and were created according to an unwritten process that had the intent of deliberately misrepresenting the financial position of Calvary Public Hospital.

3.129 The Little Company of Mary Health Care Ltd has advised the Audit Office that:

... (around the year end to June 2013) discussions were ongoing with ACT Health regarding a number of funding issues. It should also be noted that the accounts to June 2013 were externally audited and that no matters came to the attention of Deloitte that caused them to require any changes to the June 2013 statutory accounts for the legal entity ... it has been difficult to clearly identify what funding may be received from ACT Health.

## Explanation for inappropriate financial practices

### Former Chief Financial Officer

3.130 The former Chief Financial Officer advised that the primary reason for undertaking the inappropriate financial practices was to respond to the former Chief Executive Officer's strong instruction to ensure that the financial position for Calvary Health Care in 2013-14 should be reported as 'in-balance'. In providing such instruction, the former Chief Financial Officer asserts that the former Chief Executive Officer displayed bullying behaviour.

### Reporting an 'in-balance' position

3.131 In relation to reporting an 'in-balance' position, in an interview with the Audit Office, under oath or affirmation, the former Chief Financial Officer advised:

Well basically we actually overstated the revenue for that period of time, year to date, so we would balance the position.

3.132 In relation to reports prepared and provided to stakeholders, in an interview with the Audit Office, under oath or affirmation, the former Chief Financial Officer advised:

The only thing that wasn't accurate is what the revenue figure was that we brought to account. Every other expenditure line I'm aware of was certainly accurate. Everything else was right. The revenue that we would bring to account offset the deficit we were having was based on activity and things like that but it was incorrect.

3.133 In a written statement provided to the interim Chief Executive Officer of Calvary Health Care ACT Ltd dated 3 September 2014, the former Chief Financial Officer advised:

Over the past 12-18 months, I have been subjected to what I believe to be the most intolerable actions and directions by [the former Chief Executive Officer]. This has culminated into forcing me to do what I would never have thought I could consider.

...

The actions I took were, in my opinion, forced on me to correct the injustice and inaccuracies caused by decisions made by [the former Chief Executive Officer].

...

During 13/14, [the former Chief Executive Officer] had managed the organisation into a financial hole. I think a lot of this is now understood however what is still missing in some detail is the way [the former Chief Executive Officer] continued directions to report a balanced budget each month and as at June 2014. This was never going to happen when the financial result pending as at 30 June was understood. [The former Chief Executive Officer] would not see this and maintained that I had no choice but to balance our budget and report it that way. [The former Chief Executive Officer] was clear, this was on my head. The action I took at year end was to raise revenue accruals which in my opinion would not stand up to audit scrutiny.

*Claim for \$3.182 million funding for the Emergency Department Model of Care*

- 3.134 In an interview with the Audit Office, under oath or affirmation, the former Chief Financial Officer advised that, in their opinion, Calvary Health Care ACT Ltd was entitled to ongoing operational funding for a refurbished Emergency Department. The former Chief Financial Officer advised:

We actually had an ED refurbishment and for a figure, \$3 million dollars, \$4 million dollars. All capital, it was great. We then were not able to operate it... We never received any money to operate.

...

At the end of my employment we were still, had no additional funding to ensure that the project approved to refurbish that ED was actually going to be utilised the way it should have been.

- 3.135 The former Chief Financial Officer advised that, in their opinion, this was a valid point to negotiate additional funding from the ACT Health Directorate, but that this was not a strategy that was supported by the former Chief Executive Officer or Little Company of Mary Health Care Ltd National Director Public Hospitals. The former Chief Financial Officer advised:

... we had another angle to get money for this. We had another angle and we were denied the opportunity through [the former Chief Executive Officer] and [Little Company of Mary Health Care Ltd, National Director Public Hospitals]. They said, "No, you're not going to argue that" yet that was the argument. We've been in health a long time and they are the arguments you have.

- 3.136 On this issue, the Little Company of Mary Health Care Ltd has advised the Audit Office that they refute the comments that have been attributed to the National Director Public Hospitals, on the basis that they had no knowledge of any deficit for Calvary Health Care ACT Ltd.

- 3.137 In relation to the claim for \$3.182 million for the Emergency Department Model of Care, in a written statement provided to the interim Chief Executive Officer of Calvary Health Care ACT Ltd dated 3 September 2014, the former Chief Financial Officer stated:

I needed to ensure that the audit team would pick up and not accept the accrual I proposed. I felt, possibly through being very stressed, that I needed to keep this very much at arms length, making sure the auditor concluded on their own merit the outcome I was expecting. I could then use audit decisions to put in place expected adjustments. It would not be my decision. The action I undertook was to create a document that was so ridiculous in its nature, would never be passed by any audit team. My strategy was to see the financial result amended to its

true position and the CEO was made accountable for [their] actions and the final financial result for the year.

...

Perhaps in a less stressed position, I may have had the confidence to inform National Office but at that stage, after numerous complaints against [the former Chief Executive Officer] over the years I have been employed by Calvary, each case National Office supported [the former Chief Executive Officer], I felt I was boxed in.

...

I felt at this point after enduring almost 2 years of battering, extremely heavy workload, with added burden of Private hospital over the past 6 months as well as the exec sponsor in major capital works programs along side corporate services, I had nowhere to go. I decided that I would raise accrued revenue which would never be accepted by an auditor, thus exposing the true financial position that [the former Chief Executive Officer] had developed.

...

I briefed [the former Chief Executive Officer] on what I was bringing to account financially and [they] endorsed my actions based only on securing a balanced position. [They] would not accept anything else and I was not going to allow [their] temper to escalate and targeting not only me but my other executive colleagues because I could not provide what [they] wanted. I explained the document I was relying on and [they were] happy with the strategy, not knowing that I created the document.

## Former Chief Executive Officer

3.138 The former Chief Executive Officer advised they had an expectation that Calvary Health Care ACT Ltd was entitled to receive additional funding from the ACT Health Directorate and that actions taken with respect to reporting an 'in-balance' position during the year to various fora were based on this expectation that additional revenue would be forthcoming and would balance the expenditure that was being incurred. The former Chief Executive Officer further advised that:

- they had an expectation that Calvary Health Care ACT Ltd was entitled to payment for an 'employee entitlements' obligation. The former Chief Executive Officer advised that this was in recognition of discussions that had occurred between Calvary Health Care ACT Ltd and the ACT Health Directorate and advice from the former Chief Finance Officer;
- they had an expectation that Calvary Health Care ACT Ltd was entitled to payments of \$1.993 million in relation to incentive funding for achieving NEAT and NEST targets (refer to case study 2); and
- they had no knowledge of the 2013-14 claim for \$3.182 million in funding for the new Emergency Department Model of Care or the falsification of the Project Control Group meeting record, which supported this claim (refer to case study 3).

### Expectation of additional funding

- 3.139 In an interview with the Audit Office, under oath or affirmation, the former Chief Executive Officer advised ‘there was a massive amount of additional activity and also services’ in 2013-14 for which there was an expectation for further funding and that specifically, there was an entitlement for more funding for junior medical staff.
- 3.140 As stated in paragraphs 2.105 and 3.127 Calvary Health Care ACT Ltd received a \$4.015 million ‘one-off’ increase to its base funding in 2012-13. The Audit Office received conflicting accounts as to whether in 2013-14 Calvary Health Care ACT Ltd was expected to request and negotiate ‘one-off’ payments from the Territory if overspending on agreed activity levels (i.e. within original or amended Annual Performance Plan parameters) occurred.

### *Claim for \$3.717 million in employee entitlements*

- 3.141 In relation to employee entitlements, in an interview with the Audit Office, under oath or affirmation, the former Chief Executive Officer advised:

Well, my understanding, once again employee entitlements, definitely there was ongoing discussions around employee entitlements and [the former Chief Financial Officer] had had some confirmation - I can't remember the name of the person who agreed - that a claim existed and [they] had identified what [they] thought was a reasonable amount to identify in the accounts. On that matter, because I'd also had when [they] told me that that was [their] intention, I also had a discussion with [the Chief Financial Officer of Calvary Private Hospital ] and said, "What's your thinking about that?" and [the other Chief Financial Officer] said, "Well, look, the bottom line is you shouldn't overstate your accounts and you shouldn't understate your accounts and if it's something that you have an absolute belief is due to you then it should be included in the accounts" and I think, I think that [the former Chief Financial Officer] also had a discussion with the auditors about that ...

- 3.142 The former Chief Executive Officer also advised, in an interview with the Audit Office, under oath or affirmation:

I neither supported it or – I mean, the advice that I had got was that, from the [former Chief Financial Officer] and I understand from the auditors was that it was legitimate to put something on the books so, and like I said, I tested that to a point by saying, well, what was [the Calvary Private Hospital Chief Financial Officer's] thinking about that. My reflection, if I had my time over again, we should have spoken to the [Chief Financial Officer of the little Company of Mary Health Care Ltd] about it in the first instance as [they] ... will be the one that takes those accounts to the board and so therefore my reflection on that is that [they are] probably the one that we should have consulted.

### *Claim for \$1.993 million in NEAT and NEST incentive funding*

- 3.143 In relation to NEAT and NEST incentive funding, in an interview with the Audit Office, under oath or affirmation, the former Chief Executive Officer advised:

... NEAT and NEST I'm aware of and we had had those discussions with ACT Health and they formed part of our performance agreement and [Little Company of Mary Health Care Ltd, National Director Public Hospitals] was aware of those as well. We definitely accrued based on us hitting our NEAT and NEST targets and I - because the [Chief Finance Officer of ACT Health Directorate] had said even though, even though they may be, they may fall due if the

fed's don't pay till whenever, so we definitely did accrue and I'm quite clear on that but also [Little Company of Mary Health Care Ltd, National Director Public Hospitals] was aware of that as a national director. We'd accrued based on the methodology that was stated in our performance agreement.

...

Well, I got no advice from Health that they were not going to pay it and I had told them that I was accruing it based on the fact that it was in our performance agreement.

#### *Claim for \$3.182 million funding for the Emergency Department Model of Care*

3.144 In relation to funding for the Emergency Department Model of Care, in an interview with the Audit Office, under oath or affirmation, the former Chief Executive Officer advised they had no knowledge of the 2013-14 claim for funding for the Emergency Department Model of Care, nor did they know of or fabricate the minutes of the meeting of the Project Control Group of 12 July 2013 that did not in fact take place. The former Chief Executive Officer also advised:

We definitely had, not that year, the year prior we had additional - we had capital works which increased our capacity but at that point in time ACT Health said they were only paying for the capital works, they were not paying for any additional clinical resources and definitely I resisted any increase in staffing until such time as you know ACT Health agreed that they wanted to pay for additional ED staff ...

#### *Funding for junior medical staff*

3.145 In an interview with the Audit Office, under oath or affirmation, the former Chief Executive Officer advised that a key expectation for funding related to the employment of junior medical staff. The former Chief Executive Officer advised:

... I had been told the whole year that we had over accrued on junior medical staff so there was about a four year period there where there were, I wouldn't call them disputes, but there were discussions over the invoicing of junior medical staff from ACT Health to Calvary and once again the base was we had an agreement and [the former Chief Financial Officer] had sat down with [the Chief Finance Officer of the ACT Health Directorate] and also whoever the finance person was at TCH at that time and agreed on a final reconciliation but over the last period of time that had not necessarily occurred and I apologise because I didn't realise until this financial year that we hadn't done it for a number of years so we paid some but not paid all but they had or I was told we had accrued it. Because we had grown from, the original agreement was I think 22 junior staff of which you paid for 20 ... But over that period of time the junior staff had grown to something like 60 odd staff.

... but the agreement hadn't been updated ...

So [ACT Health Directorate Deputy Director-General] and I agreed we needed a contemporary agreement, we needed to update it.

3.146 In relation to the employment of junior medical staff, the former Chief Executive Officer has also advised:

I understood that over a period of four years that the junior doctor accrual was greater than the expected final position and that those funds once reversed would be the amount required to balance the budget. A similar situation occurred 2010, and was for a shorter period and fewer number of junior doctors and had provided a windfall for the end of year financial bottom line ... My discussions with the [former Chief Financial Officer] was that a similar

situation would occur at the end of this financial year as we had been reviewing the Junior Doctor accounts and noted that we had been both charged for higher level junior doctors and also junior doctors that were not on Calvary's Roster.

3.147 The former Chief Executive Officer also advised that they were told in mid-July 2014 by the former Chief Financial Officer that there was no over-accrual for funding for the junior medical staff and therefore no possibility of its reversal to release revenue. It was then decided to raise an accrual for the \$3.717 million in employee entitlements. The former Chief Executive Officer advised:

Then [the former Chief Financial Officer] came to me, on or about the middle of ... July saying, "Well, we don't - the accrual is not there" and I said, "What do you mean?" and I still do not understand. I do not understand it to this day. I cannot understand it to this day as to why if I'm told that we're over accruing over a four year period and then all of a sudden it's not there, what ... happened? So I don't have an answer to that and I didn't get an answer to that but that's when [the former Chief Financial Officer] said, "Well, yes, all right but that's not a problem because now we've got an agreement for the employee entitlements but it hasn't been quantified I can realistically bring to account that number because the number's well over \$10 million in this financial year" and the [former Chief Financial Officer] said that [they] would speak to the auditors about the validity of that position. So that's how we got to that point.

## Employee and former employee of Calvary Health Care ACT Ltd statements

3.148 The former Chief Executive Officer of Calvary Health Care ACT Ltd, the former Chief Financial Officer of Calvary Health Care ACT Ltd, and two members of the Calvary Health Care ACT Ltd Finance Team were provided with extracts of the draft report for comment. All were offered the opportunity to provide a statement for inclusion in the report. Two of the four provided statements for inclusion in the report.

### Figure 3-5 Former Chief Finance Officer of Calvary Health Care ACT Ltd statement

Prior to my employment by Calvary Hospital I had a very successful and rewarding career over some 27 years in the health system largely in a financial management capacity.

This changed when I joined Calvary Hospital in 2011. My experience from this time until I resigned in September 2014 was fraught by a number of issues arising from the direction set by LCM Executive and the CEO.

In August 2014, after years of my colleagues and I being subject to bullying and witnessing misappropriation of funds, lack of good governance and process, I resigned from Calvary ACT.

Before I resigned, I put in place a number of measures with the intention of exposing the hospital to public scrutiny. The report describes the actions I took to ensure a performance audit would be conducted which would reveal the mismanagement and other problems with the governance of the hospital.

As a consequence of my actions I have forfeited my career. I hope that as a consequence of this review that the business of Health in the ACT is routinely reviewed, improved and changed to reflect good governance and good practice as well as stamping out inappropriate behaviour.

Although the Audit Office investigations have confirmed my concerns in regard to governance, they have neglected to explain the process I undertook to ensure the Audit Office became involved in a review of the administration of public health at the ACT.

The report is silent on many aspects of the business of Health in ACT which need to be exposed. Poor external audit processes are a large part as to why such poor governance and lack of control has occurred in the 2 largest public health organisations in the ACT. It is disappointing that the AG has not highlighted this issue more comprehensively.

Investigations into the misappropriation of funds reported to ACT Health in August 2014 are yet to be finalised, or at least finalised in any discussion with me. In context to this report, this was a significant motivating factor for my conduct.

The report has failed to identify the extraordinary pressure imposed by the CEO to showing balanced positions. Deloitte's review of this issue appears to have done little more than a review of email correspondence. All executive members were aware of the true financial position every Monday and in all instances the CEO declared a (false) balanced position.

A large number of people have been reported to the Auditor-General in regard to bullying, however this issue has been given scant attention. The Government's new initiative in stamping out bullying is obviously yet to be supported by other government organisations. A difficult situation for the numerous people who have had their lives changed through inappropriate and damaging action but with no support.

In the absence of any other means of remedying the serious matters I have raised, I took steps to prompt a performance audit by the Audit Office. It is disappointing that notwithstanding the steps I took, it has taken 12 months since my statement on resignation was tabled to receive an interview or even be contacted by the audit office.

My career in Health is now over but if my conduct assist in ensuring that misappropriation of funds in the public health system is eliminated, bullying is halted, good governance and processes are put in place, Health in the ACT will be a better place.

Source: Written statement, 25 February 2016

### Figure 3-6 Member of the Calvary Health Care ACT Ltd Finance Team statement

Additional revenue was brought to account under the direction of the CFO based on [their] advice that negotiations were occurring with ACT Health Directorate in relation to activity and changes to Model of Care within the Emergency Department. Additional revenue negotiations were not uncommon over the previous financial years and often these negotiations allowed Calvary Bruce to balance the result to budget for the year. Therefore when the direction to raise journals that would result in a balanced position was not unusual as in the previous three years Calvary Bruce had received additional revenue following negotiations.

Due to the culture of bullying throughout the organisation, there was fear on my part of raising financial mismanagement concerns through relevant channels.

The Executive team should have played a greater role in reviewing and questioning the financial information prepared for them, as the information provided by Finance identified over budget expenditure.

It was not the role of the Finance staff to "fix" the expenditure issues rather it should have been the Executive Team commitment to implement a rectification plan. There were not sufficient controls put in place to reduce expenditure levels and the continued engagement of new staff and contractors.

There were many reports that were sent to the Executives, the CFO and the CEO. There was continued effort by myself to provide the necessary information to the Executive team that identified the continuing over expenditure and the forecast for the year end position. There was general poor administration of the organisation, but the poor administration sat with an Executive team that did not want to manage to expenditure budgets, and they did not question how a result could be balanced with this over expenditure.

I acted in good faith with the information that was provided to me and there was no benefit to me, financial or otherwise, in misrepresenting financial results to relevant parties

Source: Written statement, 21 January 2016



## 4 RESPONSE TO THE INAPPROPRIATE FINANCIAL PRACTICES

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- 4.1 This chapter considers the actions taken by the Little Company of Mary Health Care Ltd (and Calvary Health Care ACT Ltd) and the ACT Health Directorate in response to the inappropriate financial practices that occurred in 2013-14. It also discusses staffing arrangements at Calvary Health Care ACT Ltd, including the application of the *Public Sector Management Act 1994*.

### Summary

### Conclusion

The Little Company of Mary Health Care Ltd's immediate response to specific inappropriate financial practices at Calvary Health Care ACT Ltd in 2013-14, of accepting the resignation of two executives and conducting a forensic investigation into the financial practices was appropriate and timely. However, the workplace investigation of two of the Calvary Health Care ACT Ltd Finance Team involved in the inappropriate financial practices was inadequate. This investigation was ineffectively documented and not conducted in accordance with the requirements of the *ACT Public Sector Health Professional Enterprise Agreement 2013-2017* under which the staff are employed.

Although a range of executives and staff at Calvary Health Care ACT Ltd have asserted that they had concerns with respect to practices at Calvary Health Care ACT Ltd, there is no evidence that these were raised through appropriate channels. Given that most staff in the Calvary Health Care Public Hospital are employed under the terms and conditions of the *Public Sector Management Act 1994* they are obliged to report corrupt or fraudulent conduct or any possible maladministration.

Calvary Health Care ACT Ltd needs to have fully effective employee policy governance documents and processes, including codes of conduct and whistleblowing policy guidance (currently under review), in order to provide guidance to Calvary Health Care ACT Ltd public hospital employees on their responsibilities under the *Public Sector Management Act 1994*. These employees need to be advised that they can report inappropriate practices to non-Little Company of Mary Health Care Ltd (Calvary Health Care ACT Ltd) bodies (e.g. the Commissioner for Public Administration, the Ombudsman or the Auditor-General) and their identity can be protected.

## Key findings

	Paragraph
The Little Company of Mary Health Care Ltd acted in a timely way in replacing the two senior executives involved in the misreporting of the 2013-14 financial position of the Calvary Public Hospital.	4.9
A Deloitte investigation, which examined the inappropriate financial practices by Calvary Health Care ACT Ltd, recommended that the Little Company of Mary Health Care Ltd consider discussing various issues with the former Chief Executive Officer and former Chief Financial Officer. This did not occur.	4.22
The Chief Executive Officer of the Little Company of Mary Health Care Ltd advised the Audit Office that discussions with the former Chief Executive Officer and former Chief Financial Officer were not sought, because: <ul style="list-style-type: none"> <li>• a review of the email accounts of both by the Little Company of Mary Health Care Ltd had been conducted, and this did not reveal anything that had not already been identified by the Deloitte investigation;</li> <li>• the former Chief Financial Officer had already provided a written statement upon their resignation on 5 September 2014; and</li> <li>• the former Chief Financial Officer had commenced action with respect to a workers' compensation claim. The Little Company of Mary Health Care Ltd advised the Audit Office that it was therefore not possible to commence discussions with the former Chief Financial Officer.</li> </ul>	4.23
The two Calvary Health Care ACT Ltd Finance Team staff members who were investigated in December 2014 were employed under the terms and conditions of <i>Public Sector Management Act 2004</i> and the <i>ACT Public Sector, Health Professional Enterprise Agreement 2013-2017</i> . However the investigation conducted by the Little Company of Mary Health Care Ltd did not meet the requirements established by this Enterprise Agreement. For example, a written report was not produced in relation to the investigation and so it is not possible to review the reasonableness of the outcome of the investigation. In addition, one of the staff members was not advised of the outcome of the investigation until approximately nine months after the completion of the investigation, and only then because the Audit Office brought this deficiency to the attention of Calvary Health Care ACT Ltd and Little Company of Mary Health Care Ltd.	4.33
Since late 2014, there have been improvements made to the operation of the Calvary Network Committee and Finance and Performance Committee. Membership of the committees has been revised, with a view to achieving a more effective separation of responsibilities of the committees. Documentation associated with the conduct of meetings has also improved, as minutes are more	4.42

detailed records of discussion points and agreed actions and are signed.

Since late 2014, the quality of monthly performance and financial reporting to the Finance and Performance Committee and Calvary Network Committee has improved. Reports are more detailed, informative and supported by explanations of variations in activity and financial performance. However, the inclusion in these reports of information on how year to date revenue reported reconciles to the actual funding paid would be an additional improvement. 4.48

There have been improvements made to Calvary Health Care ACT Ltd and the Little Company of Mary Health Care Ltd's financial management and governance arrangements. Processes have been implemented to facilitate monitoring of compliance with delegations so only officers with delegated authority commit expenditure which is to be within budget limits. Additionally, administrative practices within the Calvary Health Care ACT Ltd Finance Team have been revised to tighten control and oversight of financial arrangements. 4.56

The ACT Health Directorate's appointment of a dedicated contract manager for the Calvary Network Agreement provides a single point of contact for daily interactions with Calvary Health Care ACT Ltd. This reduces the risk of communication ambiguity which has beset relationships in the past. 4.59

A relative of the former Chief Executive Officer of Calvary Health Care ACT Ltd was employed as a temporary employee of Calvary Health Care ACT Ltd. There is no evidence that key requirements of the *Public Sector Management Act 1994* were complied with in the employment of the relative, including the application of a merit-based recruitment process for terms that exceeded 12 months. 4.75

The Little Company of Mary Health Care Ltd advised the Audit Office it had recently developed and finalised (4 November 2015) a *Personal relationships in the workplace* policy to be implemented at all sites in the Little Company of Mary Health Care Ltd group. 4.76

Although executives and staff of Calvary Health Care ACT Ltd have stated to the Audit Office that they had concerns with respect to a range of financial practices at Calvary Health Care ACT Ltd, there is no evidence that these were raised through appropriate channels. For staff members who are employed under the *Public Sector Management Act 1994*, there is a risk for them that they are in breach of paragraph 9(q) which provides that one of the general obligations of public sector employees is to report to an appropriate authority any corrupt or fraudulent conduct or any possible maladministration. 4.87

The Little Company of Mary Health Care Ltd stated that its whistleblowing policy, in place throughout 2013-14, was ineffective, and that as a result it is in the process of reviewing and revising its policy. The revised whistleblowing policy will need to assist Calvary Health Care ACT Ltd staff as to their obligations under the *Public Sector Management Act 1994*, including with respect to reporting to an appropriate authority any corrupt or fraudulent conduct or any possible maladministration in the public sector. 4.91

Given the events of 2013-14 with the Calvary Network Agreement identified in this audit report, it is timely to consider whether or not having public hospital staff employed under the terms and conditions of the *Public Sector Management Act 1994* is appropriate. 4.101

### Initial response by the Little Company of Mary Health Care Ltd

4.2 The Audit Office considered whether the actions undertaken by Calvary Health Care ACT Ltd and the Little Company of Mary Health Care Ltd were appropriate in identifying and correcting the inappropriate work practices that resulted in the provision of inaccurate financial information to the ACT Health Directorate. This was done through consideration of:

- immediate actions undertaken, including the investigative response by the Little Company of Mary Health Care Ltd; and
- changes made to governance and administrative arrangements instigated by Calvary Health Care ACT Ltd and the Little Company of Mary Health Care Ltd.

### Resignation of key executives

4.3 The former Chief Executive Officer of Calvary Health Care ACT Ltd resigned on 7 August 2014 (departing on 14 August 2014) and the former Chief Financial Officer resigned on 5 September 2014 (with immediate effect).

4.4 The Little Company of Mary Health Care Ltd advised that:

... following a discussion [7 August 2014) regarding the gravity of the judgement error in bringing a proportion of the staff entitlements to account the [former Chief Executive Officer] was advised [their] contract would be terminated or [they] could choose to resign and leave within the week.

4.5 The Little Company of Mary Health Care Ltd further advised that:

... there were no other issues identified at that time that warranted any further discussion.

- 4.6 The former Chief Financial Officer was asked to resign in a meeting with Calvary Health Care ACT Ltd representatives on 5 September 2014. This followed concerns raised by the ACT Health Directorate to the Interim Chief Executive Officer of Calvary Health Care ACT Ltd with respect to the authenticity of a document (minutes of a meeting alleged to have occurred on 12 July 2013 that purported to support a revenue receivable) that had been provided by the former Chief Financial Officer. On 5 September 2014 the Calvary Health Care ACT Ltd Chief Financial Officer provided a written statement that:
- identified that they had falsified the minutes of the meeting; and
  - provided information on their motivation for doing so, which was principally that they were bullied by the former Chief Executive Officer.

### Appointment of new executives

- 4.7 The Little Company of Mary Health Care Ltd appointed two new executives to fill the roles of the former Chief Executive and Chief Financial Officers at Calvary Health Care ACT Ltd. These executives were appointed from outside Calvary Health Care ACT Ltd.
- 4.8 A new Chief Executive Officer was appointed on an interim basis on 26 September 2014 and permanently appointed to the role on 22 December 2014 and a new Chief Financial Officer was appointed on 2 February 2015.
- 4.9 The Little Company of Mary Health Care Ltd acted in a timely way in replacing the two senior executives involved in the misreporting of the 2013-14 financial position of the Calvary Public Hospital.

## Investigative response

### Response to the inappropriate financial practices

- 4.10 The investigative response by the Little Company of Mary Health Care Ltd to the inappropriate financial practices in 2013-14 can be broadly categorised in two parts:
- response to the identification of the \$3.717 million receivable for an 'employee entitlement obligation'; and
  - response to the identification of the \$5.175 million receivables and the admission of the former Chief Financial Officer that they had falsified the minutes of a meeting (alleged to have occurred on 12 July 2013, but which did not in fact take place).

## Response to the identification of the \$3.717 million receivable for an 'employee entitlement obligation'

### *Investigation by external auditor (Deloitte)*

4.11 Following the identification and reversal of the \$3.717 million receivable for an 'employee entitlement obligation', under the direction of the Little Company of Mary Health Care Board's Audit and Risk Committee the external auditor (Deloitte) conducted a supplementary review of the year ending 30 June 2014 financial statements of Calvary Health Care ACT Ltd (and three other public hospitals in the Little Company of Mary Health Care Ltd group). This review focused on:

... the management judgemental areas (i.e. more subjective areas such as prepayments, accruals.

4.12 The review identified three matters in addition to the \$3.717 million receivable relating to Calvary Health Care ACT Ltd. These were: accruals for seconded doctors, a radiology incentive payment and bonuses, totalling \$203 979. In a report dated 19 August 2014, the supplementary review concluded that:

Subject to the open items mentioned above, we didn't note any material exceptions based on our detailed review of reconciliations supported by documents and explanations provided to us ...

4.13 Based on information in the 19 August 2014 Deloitte report Calvary Health Care ACT Ltd reviewed its debtors, and this led to an increase in the doubtful debt provision of \$1 306 000 and a reduction in accrued payables of \$99 325.

## Response to identification of the \$5.175 million in receivables

4.14 Following the resignation of the former Chief Financial Officer on 5 September 2014, and their admission that they had falsified the minutes of a meeting alleged to have occurred on 12 July 2013, the Little Company of Mary Health Care Ltd:

- arranged for a senior finance executive from another Little Company of Mary Health Care Ltd hospital to conduct a detailed review of the financial records of Calvary Health Care ACT Ltd immediately following the former Chief Financial Officer's departure, in order to establish the extent of any problems;
- engaged Deloitte to undertake a forensic investigation into the circumstances associated with the manipulation of financial records; and
- conducted investigations of two Calvary Health Care ACT Ltd Finance Team staff.

4.15 The forensic investigation undertaken by Deloitte provided information on which a revised *Calvary Health Care ACT Ltd 2014 Financial Report* was prepared and lodged with ASIC on 5 November 2015. The Little Company of Mary Health Care Ltd has advised the Audit Office that following the withdrawal and relodgement of the *Calvary Health Care ACT Ltd 2014 Financial Report* with ASIC:

- Deloitte, the external auditors at the time, also lodged with ASIC on 4 November 2014 a notification under section 311 of the *Corporations Act 2001* regarding a Calvary Health Care ACT Ltd executive's attempt to mislead the auditors; and
- Deloitte has since written to ASIC on 4 March 2015 to provide clarification on queries raised by ASIC over the section 311 notification.

### Deloitte investigation

4.16 The Little Company of Mary Health Care Ltd responded in a timely manner to seek an independent investigation. On 15 September 2014, Deloitte Risk Advisory, a separate business unit to the external audit team, was engaged 'to assist Little Company of Mary Health Care Limited ... to investigate financial records of [the Little Company of Mary Health Care Ltd's] Calvary public hospital'. According to the report:

Calvary Health Care ACT Limited (**Calvary ACT**), a wholly owned subsidiary of Little Company of Mary Health Care Ltd (**LCMHC**), operates a public hospital (**Calvary Public or CPH**) and a private hospital in Canberra. LCMHC recently identified issues relating to the financial records of Calvary Public, which resulted in the departure of two senior executives of Calvary Public. LCMHC engaged Deloitte Touche Tohmatsu (**Deloitte**) to undertake an investigation into the financial records of Calvary Public involving the former senior executives.

4.17 The resulting report, provided to the Little Company of Mary Health Care Ltd on 5 November 2014, identified a series of findings in relation to the inappropriate financial practices that occurred throughout 2013-14. The Deloitte report (5 November 2014) stated:

Based on our investigation we have identified evidence that indicates that:

- The process of 'balancing the books' (i.e. recognising sufficient revenue each month in order to achieve budgeted Operating EBITDA) appears to have commenced in February 2013 following the completion of the new [Emergency Department model of care] and continued each month thereafter. As operating expenditure exceeded committed operational grant funding and other income in each month, the Adjusting Journals were posted in order to report on or above budgeted Operating EBITDA
- The Adjusting Journals were posted by members of the CPH [Canberra Public Hospital] finance team at the request of [the Chief Financial Officer] with the apparent intention of achieving an on or above budgeted Operating EBITDA in each financial year. The Operating EBITDA results presented to the CPH Executive Committee minutes incorporated the impact of the Adjusting Journals
- It has been alleged by [the CFO] ... that [their] actions were a function of [the Chief Executive Officer's] "continued directions to report a balanced budget each month and as at June 2014" and that [they] had "no choice" to report otherwise. However, our examination of the supporting documents and email correspondence has not identified any evidence that [the Chief Executive Officer] was directing the inclusion of the Adjusting Journals
- A number of employees within the CPH finance team were involved in the process of booking the Adjusting Journals. We identified evidence that [two Finance team staff] were aware of [the Chief Financial Officer's] objective of achieving on or above budget Operating EBITDA. Further, there is some indication that these individuals may have assisted [the Chief Financial Officer] to achieve these outcomes. However,

both individuals assert that their involvement was entirely at the direction of [the Chief Financial Officer].

4.18 The Deloitte report (5 November 2014) further stated:

[The Chief Financial Officer] asserts that [the Chief Executive Officer] “managed the organisation into a financial hole” in FY14 and that [their] actions are solely as a result of pressure from [the Chief Executive Officer] to cover up this alleged financial mismanagement. In respect of the alleged financial mismanagement by [the Chief Executive Officer], it is relevant to note that, had the Adjusting Journals not been posted, CPH would have reported losses in FY13 and FY14 totalling around \$8m. This supports the assertion regarding CPH’s poor financial position. The operating losses appear to have arisen due to the provision of unfunded services, other unbudgeted expenditure and weaknesses in internal systems and processes.

We have not sighted any written evidence to corroborate [the Chief Financial Officer’s] assertion that [the Chief Executive Officer] pressured [them] to manipulate the financial performance. That said, we have identified email correspondence particularising various allegations relating to [the Chief Financial Officer’s] actions and management including that [they] directed staff not to discuss the budgeted issues with National Office.

4.19 The Deloitte report (5 November 2014) provided observations in relation to the control environment:

- Discussions and verbal agreements between representatives of [Calvary Public Hospital] and [the ACT Health Directorate] are not always formally documented. This presents a significant risk to [Calvary Public Hospital] and [the Little Company of Mary Health Care Ltd] if operational decisions are made which are contrary to [the ACT Health Directorate’s] expectations and existing funding commitments
- Although there is evidence of adequate segregation of duties within the finance function, where junior finance staff have had concerns regarding the validity of particular accounting entries these have not been escalated through the available channels
- Claims for the reimbursement of [Calvary Public Hospital] staff costs from other hospitals have not been prepared and followed up on a timely basis. We have identified instances where relevant terms have not been agreed prior to commencement of the staffing arrangement. Further, there appears to be no formal process for identifying reimbursement claims and the time spent by relevant staff in the performance of services at other hospitals. As a result, these factors represent a significant risk to the successful recovery of these staff costs
- There has been inadequate regard to revenue recognition criteria in assessing [Calvary Public Hospital’s] entitlement to Commonwealth incentive funding. Management’s assessment appears to have been impacted by a misunderstanding regarding the requirements and criteria that need to be met to trigger [the ACT Health Directorate’s] entitlement to incentive funding and what amount, if any, may be payable to [Calvary Public Hospital]. An inaccurate appreciation for [Calvary Public Hospital’s] funding position may result in inappropriate strategic decisions regarding service performance levels
- Allegations of bullying and pressure to manipulate the financial performance have been raised as part of [the Chief Financial Officer’s] confession and during this investigation. Although a number of channels are available for [Calvary Public Hospital] staff to raise concerns relating to bullying, ethical and professional issues, these do not appear to have been used in this case.

4.20 The Deloitte report (5 November 2014) did not examine ‘the processes and controls within the head office’. However it recommended ‘that [the Little Company of Mary Health Care Ltd] consider the effectiveness of the control environment at [Calvary Public Hospital] in the context of the issues investigated and the control observations listed’.

4.21 The Deloitte report (5 November 2014) further stated that:

Based on our investigation we have not identified any evidence of potential inappropriation of assets or inappropriate use of [Calvary Public Hospital] funds that may have motivated the individuals to post the adjusting journals.

In summary, we recommend that [the Little Company of Mary Health Care Ltd] consider:

- Discussing the issues raised during our investigation with [the Chief Financial Officer], in particular, [their] motivation for the inclusion of the misstatements and [their understanding of the Chief Executive Officer’s] involvement. In addition, [their] reasons for why [they] did not take advantage of the various channels available to report [their] concerns prior to September 2014
- Discussing with [the Chief Executive Officer] the allegations relating to [their] involvement with the deception and pressure applied to [the Chief Financial Officer] and other CPH staff members in relation the financial performance
- Discussing with [two Finance Team staff] their comments made in certain email correspondence, which may assist in determining the precise nature of their involvement in the matters under investigation. In addition, to the extent that they believed the Adjusting Journals to be inappropriate, their reasons why they did not take advantage of the various channels available to report their concerns.

### Investigation of former Chief Executive Officer and former Chief Financial Officer

4.22 A Deloitte investigation, which examined the inappropriate financial practices by Calvary Health Care ACT Ltd, recommended that the Little Company of Mary Health Care Ltd consider discussing various issues with the former Chief Executive Officer and former Chief Financial Officer. This did not occur.

4.23 The Chief Executive Officer of the Little Company of Mary Health Care Ltd advised the Audit Office that discussions with the former Chief Executive Officer and former Chief Financial Officer were not sought, because:

- a review of the email accounts of both by the Little Company of Mary Health Care Ltd had been conducted, and this did not reveal anything that had not already been identified by the Deloitte investigation;
- the former Chief Financial Officer had already provided a written statement upon their resignation on 5 September 2014; and
- the former Chief Financial Officer had commenced action with respect to a workers’ compensation claim. The Little Company of Mary Health Care Ltd advised the Audit Office that it was therefore not possible to commence discussions with the former Chief Financial Officer.

## Investigations of Calvary Health Care ACT Ltd Finance Team staff

4.24 In accordance with the recommendation of the Deloitte report (5 November 2014), in December 2014 the Little Company of Mary Health Care Ltd conducted investigations into the actions of two Calvary Health Care ACT Ltd Finance Team staff. A letter sent to the senior of these staff members stated:

The allegations raised that will be addressed are:

- Involvement in the misstatement of the financial performance of Calvary ACT Bruce
- Facilitation of the adjusting journals personally and in conjunction with subordinates
- Involvement in the preparation and presentation of inaccurate statutory reporting over two financial years to both Calvary ACT Bruce and ACT Health

This behaviour involves:

- Failure to report unethical practices that resulted in the production of inaccurate financial statements and financial losses
- Failure to work in accordance with the Calvary Code of Conduct
- Failure to work in accordance with your professional code of conduct as a Member of CPA

4.25 A letter sent to the junior of these staff members stated:

The allegations raised that will be addressed are:

- Involvement in the misstatement of the financial performance of Calvary ACT Bruce
- Facilitation of the adjusting journals personally and in conjunction with others

This behaviour involves:

- Failure to report unethical practices that resulted in the production of inaccurate financial statements and financial losses
- Failure to work in accordance with the Calvary Code of Conduct

4.26 The two Calvary Health Care ACT Ltd Finance Team staff members were interviewed by the Interim Chief Executive Officer of Calvary Health Care ACT Ltd and the National Director, People and Organisational Development of the Little Company of Mary Health Care Ltd in early December 2014. A 'Record of Interview' was prepared for each of the interviews, and each was reviewed and signed by the Finance Team staff member.

### *Outcomes of the investigation*

4.27 A written report was not prepared with respect to the investigation and its outcomes.

4.28 On 22 December 2014 letters were prepared by the National Director, People and Organisational Development in relation to the investigations for each of the Calvary Health Care ACT Ltd Finance Team staff members. The letters stated 'the allegations as put to you in our letter dated 4 December 2014 have been unsubstantiated.' The letters further stated:

As discussed we expect and trust that you will contribute to improving the transparency and controls within the finance function. Furthermore this matter has given cause to reflect on

organisational issues and culture that may have contributed to these circumstances. These will be addressed by relevant personnel within the service and at national office.

We would encourage you, if ever put into a similar situation, that you avail yourself of the various options available, including:

1. Contact National HR or any member of the National Leadership Team. Our details are available on Calvary Connect.
2. Report to the Speak Out (whistleblower) service. This can be anonymous.

4.29 The senior staff member's letter was provided to them on 22 December 2014. The junior staff member's letter was not provided to them until 1 September 2015, after it had been identified by the Audit Office during the course of the performance audit that the staff member had not been notified of the resolution of the investigation. The Little Company of Mary Health Care Ltd states that this was an administrative oversight, and that the junior staff member did not seek information from Little Company of Mary Health Care Ltd representatives with respect to the resolution of the investigation.

#### *Issues with the investigation*

4.30 In accordance with clause 16.1(b) of the Calvary Network Agreement, the two Finance Team staff were employed under the terms and conditions of the *Public Sector Management Act 1994* and the relevant Enterprise Agreement (the *ACT Public Sector, Health Professional Enterprise Agreement 2013-2017*) at the time of the investigation. Clause 16.1(b) of the Calvary Network Agreement, states:

... the Public Hospital Employees are employees to which the terms and conditions of the [*Public Sector Management Act 1994*] (including any relevant certified agreement) apply.'

4.31 The Audit Office sought advice from the Office of the Commissioner for Public Administration with respect to the conduct of the investigation of the two Finance Team staff members and the effectiveness of the investigation.

4.32 On the basis that the two Finance Team staff members were employed under the terms and conditions of the *ACT Public Sector, Health Professional Enterprise Agreement 2013-2017*, advice was sought as to whether the investigation was conducted according to the provisions in the Enterprise Agreement. The Office of the Commissioner for Public Administration advised:

- the investigation was a 'workplace investigation' according to what is meant by *ACT Public Sector, Health Professional Enterprise Agreement 2013-2017*, section H.9, Investigations;
- the two Finance Team staff members did not receive 'the particulars of the alleged misconduct' in writing prior to the 9 December 2014 meeting (required by virtue of clause H9.2(a));
- the two Finance Team staff members did not receive details in writing concerning the investigative process (required by virtue of clause H9.2(a));

- a written report of the findings of the investigation (required by virtue of clause H9.2(g)) was not provided;
- there was no separation of roles between the investigator and investigative determination (required by virtue of clause H9.5), i.e. the National Director, People and Organisational Development, who was one of the people who conducted the investigation, signed the letters that were provided to the two staff members, advising of the outcomes of the investigation; and
- the two Finance Team staff members did not receive adequate closure of matters. In this respect it was noted 'the outcome letters ... made no reference to specific allegations, investigative findings of fact (or otherwise) and the reasons for finding the various allegations unsubstantiated.'

4.33 The two Calvary Health Care ACT Ltd Finance Team staff members who were investigated in December 2014 were employed under the terms and conditions of *Public Sector Management Act 2004* and the *ACT Public Sector, Health Professional Enterprise Agreement 2013-2017*. However the investigation conducted by the Little Company of Mary Health Care Ltd did not meet the requirements established by this Enterprise Agreement. For example, a written report was not produced in relation to the investigation and so it is not possible to review the reasonableness of the outcome of the investigation. In addition, one of the staff members was not advised of the outcome of the investigation until approximately nine months after the completion of the investigation, and only then because the Audit Office brought this deficiency to the attention of Calvary Health Care ACT Ltd and Little Company of Mary Health Care Ltd.

#### RECOMMENDATION 6 INVESTIGATIONS OF INAPPROPRIATE WORKPLACE BEHAVIOURS

The Little Company of Mary Health Care Ltd and Calvary Health Care ACT Ltd should undertake investigations of inappropriate workplace behaviours by its Public Hospital staff in accordance with the *Public Sector Management Act 1994* and any related regulations and relevant enterprise agreements.

## Improvements to governance and administration

4.34 During the audit, the Little Company of Mary Health Care Ltd provided a detailed list of changes to governance and arrangement that it had made since September 2014. This is included at Appendix A. While this list was not audited in detail, the Audit Office examined key changes made to governance and administrative arrangements, following the identification of inappropriate financial practices at Calvary Health Care ACT Ltd in 2013-14, by:

- Calvary Health Care ACT Ltd;

- the Little Company of Mary Health Care Ltd; and
- the ACT Health Directorate.

4.35 Some actions can be identified as 'joint' actions undertaken by the parties to more effectively manage the Calvary Network Agreement and the obligations and responsibilities that it presents.

### **Operation of the Finance and Performance Committee and the Calvary Network Committee**

4.36 The Finance and Performance Committee and Calvary Network Committee are two key governance groups with responsibility for the oversight of the delivery of public hospital services by Calvary Health Care ACT Ltd. For the reasons outlined in Chapter 2 of this report, these committees were not operating effectively in 2012-13 and throughout 2013-14. There have since been a number of changes to the operation of the Finance and Performance Committee and Calvary Network Committee.

#### *Separation of responsibilities*

4.37 In early 2015 membership of the Finance and Performance Committee and Calvary Network Committee was reviewed to provide greater separation of responsibilities. Key changes include:

- the Calvary Network Committee is no longer attended by the Director-General of the ACT Health Directorate or the Little Company of Mary Health Care Ltd National Director Public Hospitals. This change has been instigated to ensure that there is an appropriate avenue for escalation of issues and concerns that are raised by the Calvary Network Committee; and
- the Calvary Network Committee is attended by the Calvary Health Care ACT Ltd Chief Executive Officer and Deputy Director-General ACT Health Directorate, who now limit their attendance at the Finance and Performance Committee to specific matters that may arise during the year.

4.38 The change in membership of the committees provides for a more effective escalation process from:

- the Finance and Performance Committee to the Calvary Network Committee; and
- the Calvary Network Committee to the Director-General of the ACT Health Directorate or the Little Company of Mary Health Care Ltd National Director Public Hospitals.

4.39 Through the separation of responsibilities, the:

- Calvary Network Committee is able to separately review and consider matters from the Finance and Performance Committee; and
- the Director-General of the ACT Health Directorate or the Little Company of Mary Health Care Ltd National Director Public Hospitals is able to independently review and consider matters from the Calvary Network Committee.

#### *Conduct of meetings*

4.40 Since late 2014, the conduct of meetings of the Finance and Performance Committee and Calvary Network Committee has changed, so that there is now:

- a monthly pre-meeting of the Finance and Performance Committee in order to prioritise matters for more detailed examination at the Finance and Performance Committee itself;
- formal documentation and record-keeping of meetings. Since November 2014 it has been the practice for all records of Calvary Network Committee meetings to be formally agreed and signed off at the following meeting. Formally agreed and signed off Finance and Performance Committee meeting records are also reported to the Calvary Network Committee;
- more detailed minutes. Minutes of Calvary Network Committee and Finance and Performance Committee meetings include a more detailed narrative of discussions and clearer documentation of resolutions and decisions.<sup>29</sup> A table of 'rolling actions' is reported to the committees and is endorsed as a part of the record of meetings; and
- formal sign-off and endorsement of funding adjustments. All funding adjustments discussed and resolved at meetings are subsequently signed off by both the relevant the ACT Health Directorate delegate and Calvary Health Care ACT Ltd Chief Executive Officer. This provides a mechanism to ensure mutual recognition of obligations.

4.41 Calvary Health Care ACT Ltd now alternates secretariat functions with the ACT Health Directorate for the Finance and Performance Committee and the Calvary Network Committee.

4.42 Since late 2014, there have been improvements made to the operation of the Calvary Network Committee and Finance and Performance Committee. Membership of the committees has been revised, with a view to achieving a more effective separation of responsibilities of the committees. Documentation associated with the conduct of meetings has also improved, as minutes are more detailed records of discussion points and agreed actions and are signed.

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<sup>29</sup> Calvary Finance and Performance Committee meeting minutes were reviewed for the December 2014 to June 2015 period.

### *Changes in performance and financial reporting*

- 4.43 There have been changes to performance and financial reports presented to the Calvary Network Committee and Finance and Performance Committee.
- 4.44 Monthly *Calvary Public Hospital Performance Reports* include relevant data and information and supporting narrative which focuses on performance against activity measure targets (or revised targets) as well as tolerances. In particular the following changes were observed for the May 2015 *Calvary Public Hospital Performance Report*:
- detailed narrative supporting the comparison of actual to target, for all Key Performance Indicators from the Annual Performance Plan; and
  - visual comparison (graphs) of Key Performance Indicator actuals compared to targets, using bar charts and time series style reports, that show movements and trends in Key Performance Indicators for the 12 month period prior to the month being reported upon.
- 4.45 Financial reporting has also changed. Monthly *ACT Health Reports* include information on Operating EBITDA, revenue and expenditure, and provide narrative and data for actual versus budget results, for the month and year to date. In particular, the following were observed for the May 2015 *ACT Health Report*:
- dashboard or traffic light style indicators for Operating EBITDA, revenue and expenditure;
  - traffic light indicators for revenue and expenditure and related sub-accounts, for example Government grant revenue and Employee Expenses; and
  - more detailed narrative that supports the dashboard indicators, which provides explanations for variances from budget for EBITDA, revenue and expenditure, including at a detailed sub-account level relating to revenue and expenditure.
- 4.46 Specifically it was observed that the *ACT Health Report* identified a plausible, and informative financial position statement, including:
- actual year to date EBITDA at \$1.593 million versus a budget of \$2.428 million;
  - Government grant revenue was reported as being above the budgeted position, and an explanation was provided as to how this has arisen;
  - Finance One-based reporting tables supported the report narrative, and identified a two per cent actual to budgeted revenue variance for the year. (In the 2013-14 year, actual revenue reported by May 2014 was running eight per cent above the budgeted level); and
  - expenditure was explained and major components (e.g. employee expenses) and actual to budgeted positions discussed.

- 4.47 There continues to be no information provided to the Finance and Performance Committee on how year to date revenue reported reconciles to the actual funding paid year to date. This reconciliation is important as it provides greater insight for the committee on how much funding has been recognised as revenue and provides information to ensure that revenue recognition has a clear nexus to funding received, at any month during the financial year.
- 4.48 Since late 2014, the quality of monthly performance and financial reporting to the Finance and Performance Committee and Calvary Network Committee has improved. Reports are more detailed, informative and supported by explanations of variations in activity and financial performance. However, the inclusion in these reports of information on how year to date revenue reported reconciles to the actual funding paid would be an additional improvement.

#### **RECOMMENDATION 7      REPORTING OF RECONCILIATION OF MONTHLY REVENUE**

Calvary Health Care ACT Ltd should include the following in its reporting to the ACT Health Directorate in relation the Calvary Network Agreement:

- a) reconciliation of year to date revenue to the actual funding paid year to date, including explanations for reconciling items; and
- b) information on the basis of how revenue items have been recognised, to ensure only approved funded items have been included in the revenue reported.

#### **Little Company of Mary Health Care Ltd**

- 4.49 The Little Company of Mary Health Care Ltd sought and received explanations<sup>30</sup> from its external auditor at the time as to its conduct of the 2013-14 review of the financial statements. The Australian Securities and Investments Commission (ASIC) was also notified by the external auditors in November 2014 of the attempt by a Calvary Health Care ACT Ltd executive to mislead auditors (refer to paragraph 4.15).
- 4.50 The Little Company of Mary Health Care Ltd has since advised the Audit Office it removed and replaced its external auditor in April 2015. During the new auditor's review of the 2014-15 financial statements, a 'certification of funds received by Calvary Health Care ACT Ltd from ACT Health Directorate for the 2014-15 year' was received from both parties and agreed.
- 4.51 The Little Company of Mary Health Care Ltd has also advised that it has implemented business intelligence software that allows its Chief Financial Officer to monitor general journal processing in the company's financial management system (Finance One) across its hospitals and other sites over a pre-determined limit (currently set at \$500 000). For

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<sup>30</sup> Letter (October 2014) to the Chair of the Little Company of Mary Health Care Ltd Audit and Risk Committee

general journal entries over this amount, an explanation is required to be provided to the Little Company of Mary Health Care Ltd Chief Financial Officer.

### Calvary Health Care ACT Ltd

4.52 Within Calvary Health Care ACT Ltd, there have been a number of changes to governance, management and administrative arrangements. These include:

- monitoring of compliance with delegations to ensure that only delegated authorities commit expenditure, within budget limits. For example discretionary expenditure must be approved by the Calvary Health Care ACT Ltd Chief Executive Officer. This is also the case for expenditure on all newly recruited staff. This is expected to achieve closer oversight across all the major cost centres, and improve the prospects of the expenditure component of the rectification plan being achieved.
- improvements to the operation of the Calvary Health Care ACT Ltd Finance Team, including:
  - clearer identification of roles within the team;
  - improved controls on who prepares and signs off journals;
  - monthly preparation of general ledger reconciliations, which are independently reviewed and signed off by the Financial Controller and Chief Financial Officer;
  - monthly review of the provision for doubtful debts;
  - improved reconciliation of ACT Government grant revenue with substantive evidence required before additional grant revenue is recognised;
  - implementation of consistent processes and practices for business managers across different hospital business units and consistent reporting across all business units, including explanations for variances; and
  - implementation of a sign-off process for the development and agreement of budgets for different hospital business units. This is expected to lead to a stronger commitment by cost centre managers to 'own' budgets that are formally agreed and endorsed through a sign-off process and is designed to ensure greater ownership by and accountability of business managers in the budget setting and monitoring process.

#### *Monthly financial reporting*

4.53 Calvary Health Care ACT Ltd has also changed its monthly financial report processes. Monthly reports summarising Calvary Health Care ACT Ltd public hospital activities are prepared by the Calvary Health Care ACT Ltd Chief Executive Officer for:

- Little Company of Mary Health Care Ltd executives; and
- the Finance and Performance Committee (and Calvary Network Committee).

4.54 As discussed in paragraphs 3.80 to 3.88, prior to August 2014, monthly financial reports identified Operating EBITDA surplus performance (actual to budget) and year to date revenue but did not include information on expenditure. Since August 2014 reports have

included information on expenditure (including narration on expenditure variances) and have included more detail on the effects of expenditure and revenue on the resulting Operating EBITDA. Monthly financial reports have also included narrative on short term business recovery actions and the work of Calvary Health Care ACT Ltd's Innovation and Redesign team which is supporting business transformation and improvement in efficiency. Collectively, this information provides a fuller and more effective summary of Calvary Health Care ACT Ltd's financial position.

### **Little Company of Mary Health Care Ltd executive and Board**

4.55 The main interface between Calvary Health Care ACT Ltd and Little Company of Mary Health Care Ltd executives is through monthly meetings between the National Director Public Hospitals and the Calvary Health Care ACT Ltd executive. The Little Company of Mary Health Care Ltd executive has stated that there have been a number of changes made in the conduct of these meetings, which increases the scrutiny the Calvary Health Care ACT Ltd financial position comes under, including:

- more structure to meetings to allow for better monitoring of activities and financial information;
- individual reports from each Calvary Health Care ACT Ltd executive, covering Medical Services, Nursing and Midwifery, People and Culture, Finance and corporate, Patient Safety and Quality, and Mission;
- the monitoring of revenue and expenditure, with data and narrative using the same financial management reports as those taken to the Finance and Performance Committee. This means it is possible to identify the monthly progress of Operating EBITDA and principal reasons for departures from budgeted revenue and expenditure;
- the monitoring of rectification plans; and
- minuting of all meetings.

4.56 There have been improvements made to Calvary Health Care ACT Ltd and the Little Company of Mary Health Care Ltd's financial management and governance arrangements. Processes have been implemented to facilitate monitoring of compliance with delegations so only officers with delegated authority commit expenditure which is to be within budget limits. Additionally, administrative practices within the Calvary Health Care ACT Ltd Finance Team have been revised to tighten control and oversight of financial arrangements.

### **ACT Health Directorate**

4.57 The ACT Health Directorate has appointed a contract manager to manage the relationship with Calvary Health Care ACT Ltd for the delivery of Calvary Public Hospital services. The contract manager is responsible for managing daily interactions with Calvary Health Care ACT Ltd in relation to the Calvary Network Agreement. The introduction of the contract manager now provides a single point of contact for the ACT Health Directorate to facilitate

and manage flows of information between parties in respect of the Calvary Network Agreement.

- 4.58 The contract manager has responsibility for providing the secretariat functions on behalf of the ACT Health Directorate in relation to the Calvary Network Committee and the Financial and Performance Committee. This is a shared function with a Calvary Health Care ACT Ltd officer.
- 4.59 The ACT Health Directorate's appointment of a dedicated contract manager for the Calvary Network Agreement provides a single point of contact for daily interactions with Calvary Health Care ACT Ltd. This reduces the risk of communication ambiguity which has beset relationships in the past.

## Obligations and responsibilities of Calvary Public Hospital staff

### Inappropriate financial practices

- 4.60 There were inappropriate financial practices at the Calvary Public Hospital in 2012-13 and throughout 2013-14, undertaken and facilitated by former executives and other staff members (refer to Chapter 3). This has included:
- entry of inaccurate information related to Calvary Health Care ACT Ltd in the Little Company of Mary Health Care Ltd financial management information system (Finance One); and
  - provision of deliberately misleading financial reports by Calvary Health Care ACT Ltd to ACT Health Directorate and Little Company of Mary Health Care Ltd executives. The former Chief Executive Officer and former Chief Financial Officer of Calvary Health Care ACT Ltd undertook this deception, while at least two Calvary Health Care ACT Ltd Finance Team staff members entered inaccurate information in Finance One.

### Concerns with respect to inappropriate management practices

- 4.61 In the written statement provided by the former Calvary Health Care ACT Ltd Chief Financial Officer on 5 September 2014, they made assertions in relation to bullying and harassment behaviour of the former Calvary Health Care ACT Ltd Chief Executive Officer.
- 4.62 A range of other Calvary Health Care ACT Ltd executives and staff members have also expressed concerns with respect to management practices of the former Chief Executive Officer of Calvary Health Care ACT Ltd. This includes assertions that:
- the former Chief Executive Officer demonstrated bullying and harassing behaviours towards other executives and staff members;

- the former Chief Executive Officer created an operating environment for Calvary Health Care ACT Ltd that did not facilitate open and transparent dialogue and recognition of issues and that did not encourage differing views; and
- a relative of the former Chief Executive Officer was inappropriately engaged as a temporary employee of Calvary Health Care ACT Ltd.

#### *Bullying and harassing behaviours*

4.63 The Little Company of Mary Health Care Ltd has advised that bullying and harassment claims had previously been made in relation to the former Chief Executive Officer of Calvary Health Care ACT Ltd and that these had been investigated and that there were no 'open' claims during this period. No further evidence was provided to the Audit Office that executives or the other staff had reported their concerns at the time to appropriate authorities, including Little Company of Mary Health Care Ltd executives or the ACT Health Directorate.

#### *The executive operating environment*

4.64 A range of current and former Calvary Health Care ACT Ltd executives and senior staff advised the Audit Office that they were suspicious of Calvary Public Hospital's financial reporting throughout the 2013-14 year, and that in their view it was not possible to reconcile the in-balance position being promulgated by the former Chief Executive Officer and former Chief Financial Officer with their own knowledge of the financial circumstances of Calvary Public Hospital.<sup>31</sup>

4.65 However, Calvary Health Care ACT Ltd executives and senior staff also advised the Audit Office of a challenging managerial environment in which they worked during the 2013-14 year, and that this created an impediment to communicating their concerns about the financial position to others beyond the Calvary Health Care ACT Ltd executive team, such as to ACT Health Directorate or Little Company of Mary Health Care Ltd executives.

4.66 Executives stated that their weekly and monthly meetings in 2013-14 were ineffective. These focused on operational detail and avoided discussing and resolving major issues, with important matters 'taken as read'. Executives also stated that it was demanded of them that all communication with the Little Company of Mary Health Care Ltd executive be routed through the former Chief Executive Officer of Calvary Health Care ACT Ltd, and that they were disinclined to ignore this demand, despite the seriousness of the financial situation.

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<sup>31</sup> Ten current or former employees who were in post during 2013-14 were interviewed by the Audit Office. Eight advised that they had knowledge during the year of the financial difficulties of Calvary Public Hospital.

*Employment of a relative of the former Chief Executive Officer as a temporary employee of Calvary Health Care ACT Ltd*

4.67 An additional issue was identified with respect to the employment of a relative of the former Chief Executive Officer as a temporary employee under the *Public Sector Management Act 1994* in 2012 and 2013. The relative was employed under three separate contracts as follows:

- 21 November 2012 to 22 May 2013 - Calvary Health Care ACT Ltd Finance Team;
- 16 May 2013 to 12 June 2013 - Calvary Health Care ACT Ltd Finance Team; and
- 12 June 2013 to 11 December 2013 - Medical Administration department.

4.68 The final temporary engagement was cut short and the relative left the employment of Calvary Health Care ACT Ltd on 23 October 2013. The Audit Office was advised by Little Company of Mary Health Care Ltd executives that they received an anonymous complaint through the biennial staff survey in early 2013 relating to the employment of the former Chief Executive Officer's relative.

4.69 Accounts as to the basis on which the relative was employed and left the employment of Calvary Health Care ACT Ltd differ significantly. For example, with respect to the initial employment of the person, the former Chief Executive Officer advised:

[The former Chief Financial Officer] approached me and said that [they were] looking for someone that [they] wanted to work on spreadsheets and [they] had noted - and how [they] had noted because we actually got [them] to sign off the annual accounts for [an organisation] and [they] had just said to [the relative], "well, how do you do all this?" and [the relative] said, "I do it myself. Like I just put it into a spreadsheet" and [the former Chief Financial Officer] said to me, "Well, I'd like to employ [the relative]".

4.70 However, in direct contrast, the former Chief Financial Officer advised that the former Chief Executive Officer first raised the idea. The former Chief Financial Officer advised:

[The former Chief Executive Officer] came to me one Monday morning or one morning and suggested what would I think if [the relative] was employed. Went through the skill mix and all this sort of stuff. [The relative] had some Excel skills supposedly. Those sorts of things ... I said to [the former Chief Executive Officer], "I wouldn't do it with my [relative]". That's where I left it.

4.71 Nevertheless, the former Chief Financial Officer confirmed that they had signed the relevant documentation to initially employ the relative at Calvary Health Care ACT Ltd, but that they had done so after expressing reservations to the former Chief Executive Officer:

I didn't say, I don't think I actually said, "I don't think it's a good idea". I said "I wouldn't do it". So I wasn't perhaps clear with my absolute thought ...

4.72 The former Chief Executive Officer advised the Audit Office that no reservations had been expressed by the former Chief Financial Officer, but that it was the former Chief Executive Officer that expressed 'reticence' about the appointment of the relative.

- 4.73 There are a number of shortcomings with the documentation associated with the employment of the relative and the personnel file does not confirm how the position(s) were first identified and then filled. The Audit Office notes that there is no record to evidence the completion of important procedural steps relating to the recruitment process or the subsequent employment of the relative. This includes:
- the absence of the details of the proposed recruitment process, or job description for the position(s) prior to engagement of the relative;
  - incomplete forms, with no signatory (delegate) or an inappropriate signatory;
  - the absence of any disclosure of the relationship between the relative and the former Chief Executive Officer from whom the approving executive directors receive delegated authority to recruit and appoint personnel; and
  - the relative providing a very brief CV for the personnel file only after they had commenced employment.
- 4.74 Letters of offer that were made identified that the relative was to be employed in accordance with section 108 of the *Public Sector Management Act 1994*, which provides for the employment of a person for a fixed term up to five years. (This contrasts with section 107, which allows for the employment of a person for a fixed term less than 12 months). Subparagraph 108(3)(b)(i) of the *Public Sector Management Act 1994* allows for the employment of a person on a temporary basis for up to five years, provided that the merit principle (section 65 of the *Public Sector Management Act 1994*) was applied in the initial engagement of the person. Paragraph 65(1)(g) provides that a merit-based selection process should be applied to 'a fixed term engagement if the period of engagement is for more than 12 months'. The three terms of engagement of the relative of the former Chief Executive Officer of Calvary Health Care ACT Ltd were for greater than 12 months, but there is no evidence of the application of a merit-based process being applied for any of the appointments.
- 4.75 A relative of the former Chief Executive Officer of Calvary Health Care ACT Ltd was employed as a temporary employee of Calvary Health Care ACT Ltd. There is no evidence that key requirements of the *Public Sector Management Act 1994* were complied with in the employment of the relative, including the application of a merit-based recruitment process for terms that exceeded 12 months.
- 4.76 The Little Company of Mary Health Care Ltd advised the Audit Office it had recently developed and finalised (4 November 2015) a *Personal relationships in the workplace* policy to be implemented at all sites in the Little Company of Mary Health Care Ltd group.

## Obligation to report inappropriate conduct

### *Public Sector Management Act 1994*

4.77 Clause 16.1 of the Calvary Network Agreement states:

- (a) Calvary is the employer of all Public Hospital Employees, Contract Employees, Management Employees and the Chief Executive Officer of Calvary; and
- (b) the Public Hospital Employees are employees to which the terms and conditions of the PSMA (including any relevant certified agreement) apply.

4.78 Nearly all employees in administration and management functions in the Calvary Public Hospital are employed under contracts provided by Calvary Health Care ACT Ltd. Offers of employment that were sighted during this audit stated:

Your employment is in accordance with the [*Public Sector Management*] Act and your terms and conditions of employment will be drawn from the Act and *Standards* and the ACT *Public Service Health Directorate Enterprise Agreement*.

4.79 The former Chief Executive Officer and former Chief Financial Officer Calvary Health Care ACT Ltd were employed under contracts provided by the Little Company of Mary Health Care Ltd.

4.80 Section 9 of the *Public Sector Management Act 1994* provides for the general obligations of public employees. Paragraph 9(q) provides that one of the general obligations of public employees is to:

... report to an appropriate authority -

- i) any corrupt or fraudulent conduct in the public sector that comes to his or her attention;  
or
- ii) any possible maladministration in the public sector that he or she has reason to suspect.

4.81 The *Public Sector Management Act 1994* does not provide further guidance in relation to what is or who might be an 'appropriate authority' or how a report should be made.

4.82 One reporting option is the making of a public interest disclosure under the *Public Interest Disclosure Act 2012*. This legislation provides added protection to a person with respect to protecting their identity and possible recriminations.

4.83 The *Public Interest Disclosure Act 2012* sets out who may make a disclosure. It also sets out how and to whom it is made and what then happens to the disclosure. This varies depending on whether or not 'the discloser is a public official for a public sector entity' (paragraph 15(1)(c)). Section 14 of the Act states:

**Who may make a public interest disclosure?**

Any person may make a public interest disclosure.

4.84 Although some current and former Calvary Health Care ACT Ltd executives (refer to paragraph 4.64) advised the Audit Office that they had had concerns about the misreporting of Calvary Health Care ACT Ltd's financial position in 2013-14, there is no evidence of specific concerns raised by Calvary Health Care ACT Ltd employees with:

- Little Company of Mary Health Care Ltd executives;
- ACT Health Directorate;
- ACT Auditor-General; or
- Commissioner for Public Administration.

4.85 The Audit Office was advised by two members of the Calvary Health Care ACT Ltd Finance Team that they had discussed their own concerns about the financial practices and the misreporting of Calvary Health Care ACT Ltd's 2013-14 financial position with:

- each other;
- the former Chief Financial Officer of Calvary Health Care ACT Ltd;
- the former Chief Executive Officer of Calvary Health Care ACT Ltd; and
- an executive at another Little Company of Mary Health Care Ltd hospital.

4.86 In each case, the specific detail of the concern that was raised and the manner in which the concern was conveyed cannot be established with certainty. No contemporaneous records have been provided for these conversations. In three of the four circumstances both parties to the discussion were directly involved in the concerns being raised.

4.87 Although executives and staff of Calvary Health Care ACT Ltd have stated to the Audit Office that they had concerns with respect to a range of financial practices at Calvary Health Care ACT Ltd, there is no evidence that these were raised through appropriate channels. For staff members who are employed under the *Public Sector Management Act 1994*, there is a risk for them that they are in breach of paragraph 9(q) which provides that one of the general obligations of public sector employees is to report to an appropriate authority any corrupt or fraudulent conduct or any possible maladministration.

#### *Calvary Code of Conduct (Little Company of Mary Health Care Ltd)*

4.88 The *Calvary Code of Conduct* (2012) seeks 'to provide guidance for a values based approach to work, professional relationships and performance expected of staff' applicable 'for all employees, contractors, agency staff, volunteers and Visiting Medical Officers (VMOs)' working across Calvary hospitals, community care services and retirement communities. The *Calvary Code of Conduct* identifies behaviours expected of staff against the core values of hospitality, healing, stewardship and respect. The *Calvary Code of Conduct* states:

All staff are expected to be fully aware of the avenues available to assist in resolving issues of an ethical nature. Mechanisms are in place to manage ethical issues - both clinical and business. These include application of the LCM Health Care Mission Decision Making Criteria,

formal Ethics Committees, CHA Code of Ethical Standards, Confidential “Whistleblower” Alert Policy, access to external ethics advisers and centres, and general peer support and resolution by national and services Calvary executive teams.

- 4.89 The *Calvary Code of Conduct* states ‘behaviour contrary to our Code may be grounds for adverse performance reviews, or disciplinary action including formal warnings, demotion, or termination of employment/engagement’. As the *Calvary Code of Conduct* was developed for all Calvary organisations operating within the Little Company of Mary Health Care group it does not reference State or Territory specific legislation such as the ACT’s *Public Sector Management Act 1994*, or the requirements and obligations on staff of this Act.
- 4.90 The Little Company of Mary Health Care Ltd advised a review of the *Calvary Code of Conduct* had commenced in early 2015 and that the code was approved and re-issued in September 2015.

#### *Little Company of Mary Health Care Ltd whistleblowing policy*

- 4.91 The Little Company of Mary Health Care Ltd stated that its whistleblowing policy, in place throughout 2013-14, was ineffective, and that as a result it is in the process of reviewing and revising its policy. The revised whistleblowing policy will need to assist Calvary Health Care ACT Ltd staff as to their obligations under the *Public Sector Management Act 1994*, including with respect to reporting to an appropriate authority any corrupt or fraudulent conduct or any possible maladministration in the public sector.

#### *Calvary Health Care ACT Code of Conduct (Bruce)*

- 4.92 Calvary Health Care ACT Ltd has in place a Code of Conduct, dated December 2013, which applies to Calvary Public Hospital employees. Executives from Calvary Health Care ACT Ltd and the Little Company of Mary Health Care Ltd advised that the policy was introduced in December 2013 and that it has been routinely circulated to new staff. The policy states:

This Code of Conduct is designed to assist all employees to understand what is reasonable and acceptable behaviour in the workplace. This document outlines the obligations of employees and principles to be applied in the workplace and as outlined in legislation. In addition to this Code of Conduct, Calvary has an expectation that all employees will in their every day work adhere to our Mission and Values of Healing, Hospitality, Stewardship and Respect.

- 4.93 The policy outlines the responsibilities of employees, which are taken (with minor amendments), from section 9 of the *Public Sector Management Act 1994*.
- 4.94 During the conduct of the audit, the Audit Office received conflicting information about the existence of the Code of Conduct and whistleblowing guidance specific to Calvary Health Care ACT Ltd staff at Bruce during the period 2012 to 2015. Senior members of staff at Calvary Health Care ACT Ltd advised no local code of conduct policy existed and that ‘there are no clear policies and procedures in relation to whistleblowing’.

## RECOMMENDATION 8 INFORMATION AND SUPPORT TO STAFF

The Little Company of Mary Health Care Ltd and Calvary Health Care ACT Ltd should continue to review, amend and promulgate employee behaviour and conduct documents, including policies relating to employees' conduct and 'whistleblowing', so that Calvary Health Care ACT Ltd public hospital staff are provided with information on:

- a) their duties and obligations under the *Public Sector Management Act 1994*, including their obligation to report any corrupt or fraudulent conduct or any possible maladministration to an appropriate authority; and
- b) options, including the making of a public interest disclosure under the *Public Interest Disclosure Act 2012*, for the reporting of any corrupt or fraudulent conduct or any possible maladministration to appropriate ACT public sector authorities, such as the ACT Health Directorate, the Commissioner for Public Administration or the ACT Auditor-General.

### Employment of Calvary Health Care ACT Ltd staff

- 4.95 This report has identified inappropriate behaviours by Calvary Health Care ACT Ltd staff in relation to financial and management practices in 2013-14, including:
- some staff undertaking inappropriate financial practices, such as the deliberate manipulation of information related to Calvary Health Care ACT Ltd in Finance One, and providing financial reports knowing that they contained deliberately misleading information to the ACT Health Directorate and Little Company of Mary Health Care Ltd executives; and
  - some executives and staff having significant concerns about inappropriate financial practices and workplace behaviours but not reporting this to appropriate authorities.
- 4.96 Most staff employed in administration and management functions by Calvary Health Care ACT Ltd in the public hospital are employed under the *Public Sector Management Act 1994* (refer to paragraph 4.78). Participating in inappropriate financial practices and failing to report to an appropriate authority any corrupt or fraudulent conduct or any possible maladministration may be a breach of parts of section 9 of the *Public Sector Management Act 1994*, which provides for general obligations of public employees.
- 4.97 This audit has identified that the Little Company of Mary Health Care Ltd's investigation of two Finance Team staff members was not conducted in accordance with the *Public Sector Management Act 1994* and the relevant enterprise agreement.
- 4.98 Employment arrangements are complicated in the Calvary Public Hospital, as staff have rights and obligations under the *Public Sector Management Act 1994* but for all practical purposes are directed and contracted by, and report to, Calvary Health Care ACT Ltd which is a private sector employer. This presents a risk that staff may not be clear on their obligations as public hospital employees, as appears to have been the case in 2013-14.

4.99 The principles of this employment arrangement date back to the *Second Supplementary Agreement Part 3* (9 May 1991) in which Calvary Hospital ACT Incorporated and the Australian Capital Territory agreed that:

... Calvary Hospital is to be upgraded to a public hospital of approximately 300 beds under a program that includes making employment under the terms and conditions of the *Public Service Act 1922* applicable or available at public hospitals, including Calvary Hospital; and

Future employees (including employees transferring to Calvary Hospital from other public hospitals within the Territory) of Calvary Hospital shall be appointed under the *Public Service Act [1922]* ...

4.100 An added complication is workers' compensation arrangements. Broader ACT Public Service workers' compensation arrangements apply to Calvary Health Care ACT Ltd staff, even though they are employed by a private sector organisation. Although the ACT Government is not responsible for the employment or daily management of these staff, the payment of workers' compensation premiums in Calvary Public Hospital impacts on ACT Government. The Little Company of Mary Health Care Ltd advised that this public-private arrangement also affects its access to commercial insurance arrangements and to efficiency savings.

4.101 Given the events of 2013-14 with the Calvary Network Agreement identified in this audit report, it is timely to consider whether or not having public hospital staff employed under the terms and conditions of the *Public Sector Management Act 1994* is appropriate.



# APPENDIX A: WORK PRACTICE CHANGES

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The Little Company of Mary Health Care Ltd advised the Audit Office of the following changes to its governance and administrative arrangements:

## **Accounting - Year End strengthened and additional processes**

- Annual Financial Statements produced for CHCACT Ltd Public Division General Fund with Independent Reasonable Assurance report from auditors (KPMG)
- Auditors requested and received “certification” of funds received by CHCACT from ACTH for 2014/15 from both parties
- Strong Analytical analysis from KPMG on improvement in financial performance in 2014/15
- External auditors replaced

## **ACTH relationship**

- Performance Plan to be signed by Chair of the LCMHC Board as well as CEO & National Director Public Hospitals (Plan agreed – execution to occur shortly)
- Improved narrative on financial performance provided to F&P Committee
- Running log of correspondence between CHCACT & ACTH to be tabled at F&P
- Minutes of the F&P Committee & CNA Committee are now all signed and dated
- Improved minuting of F&P and CNA meetings with clear action items reflected in both minutes and agendas and not solely in the action logs
- “Running Sheet” from ACTH obtained on a regular basis and reconciled to monthly Financial Statements
- All funding commitments confirmed in writing (correspondence) or signed minutes and no action taken or commitment made until this is confirmed
- Regular reconciliation of public monies provided under the Performance Plan are conducted by ACTHD

## **CHCACT internal work practices and other improvements**

- Reinforce that Operating Budgets prepared on a “bottom up” basis with responsible managers required to take “ownership of their budget”
- Managers required to operate within budget and all budgets signed off by cost centre managers and relevant executive
- Current business recovery plan provided improved focus on delegations and the requirement that non-discretionary expenditure require CEO approval including all new staff appointments
- Review of Financial Performance as a prominent topic at Executive meetings and performance meetings with ND Public Hospitals
- Executive Meeting minutes signed/dated (newly implemented)
- Weekly Executive Meeting now reviews financial performance forecasting with a view to improving accuracy
- Financial reporting format for meetings changed to improve narrative

- Patient Access Flow Forum meeting reports changed to monitor performance against Key Performance Indicators - Cost Weighted Separations / Elective Surgery Wait List / Endoscopy / Births / weekly and identify required remediation
- Daily demand management reporting format revised to improve demand management
- Annualised bed availability schedule established
- CFO establishing stronger working relationship with NCFO New organisational restructure established to improve clinician engagement in decision making, promote multidisciplinary and collaborative approached to planning and discourage silo decision making
- Delegations manual revised and new draft financial and HR delegations drafted in line with new organisational structure.
- The introduction of T1 (Accounts Payable digital workflow) will further strengthen and support controls on delegations
- New committee structure drafted in line with organisational structure – commencing 2016 and to include local Finance and Performance Committee and an Infrastructure and Health Planning Committee
- Review of Practitioner By Laws to assist in managing the resource
- New Performance Development Framework introduced (consistent expectations from Executives in line with Calvary's framework)
- Business Plans established for all executive portfolios which aggregate to a consolidated business plan for each FY – progress reviewed quarterly at Executive Meeting

**Accounting Process changes**

- Improved timeliness of all processes
- National Office automated program via Business Intelligence software that alerts all General Journals over \$500k now in place with explanation to NFCO
- Roles within the finance team clearly identified and improved controls on who prepares and approves journals along with an independent review of General Journals over \$200k by CHCACT CFO
- General ledger reconciliations are prepared monthly and independently reviewed by CFO
- Provision for doubtful debts reviewed monthly and collection efforts increased
- Improved ACT Grant Fund reconciliation with substantive evidence required before additional grant revenue recognised
- Board Approvals for significant Capex authorisations are delegated to the NCEO and not the local CEO as an added 'check and balance'
- Enhanced documentation of month end and year end processes including improved definitions of roles and responsibilities of finance staff

**Internal Performance meeting changes**

- Standard Agenda items including identification of "Hot Spots" or areas of concern
- A Finance Report (used for local purposes) that is now consistent across all Public Hospitals and includes variances to revenue and expenditure, variances to FTEs, review of Aged Debtors and review of Balance Sheet
- Minuted and have agreed action items

## APPENDIX B: OPERATING EBITDA VARIANCES (OPINION)

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The following analysis supports the opinion provided in paragraphs 3.90, 3.91 and 3.94.

In my opinion it is extremely improbable that any entity could consistently (i.e. month after month) achieve YTD results that were identical to those that had been budgeted or forecast. This is particularly the case when YTD results are reported to the nearest \$1 000 for an entity with annual expenditures and revenues each approaching \$200 million. The only exception would be where an entity had a funding agreement with another party that guaranteed to meet all of the entity's costs. While Calvary Health Care ACT Limited received the bulk of its revenue from the ACT Health Directorate and this was revenue was subject to various agreements between the two parties, my understanding is that nothing in these agreements gave rise to such a guarantee.

I do not accept that public hospital costs are capable of being so tightly controlled that Calvary Hospital could achieve exactly the budgeted result for each month, and certainly not to within \$1 000. The draft Performance Audit report indicates that total Calvary Hospital expenditures for 2013-14 exceeded the budget expectation by some \$15.2 million or 9 per cent, a situation inconsistent with the argument that hospital costs can be that tightly controlled. Monthly financial reports during 2013-14 also showed YTD expenditures exceeding budget.

While revenue streams may be somewhat more certain (given the funding agreement in place with the ACT Health Directorate), they are by no means so certain that they could be recognised on a monthly basis precisely in accordance with budget.

Given the expectation of month to month variances in both revenues and expenditures, the continuing monthly reporting of zero YTD variance against the YTD budgeted EBITDA figure should have been seen as questionable by those to whom the reports were provided. This holds regardless of whether the reports covered Calvary Health Care ACT Limited as a whole, or presented separate figures for the public and private hospitals.

I have noted [Little Company of Mary Health Care Ltd's] arguments on these matters but do not find that they contain any evidence that the proposed Performance Audit Report should be changed. A number of these arguments simply repeat that [Little Company of Mary Health Care Ltd's] objective is to ensure that hospital costs are matched to revenues. This objective would be common to most not-for-profit entities but does not, in itself, guarantee that it will be achieved.

This objective of achieving a financial result close to a particular desired outcome (whether measured in EBITDA or other terms) should give rise to close monitoring of what is being reported. That the figures reported consistently showed the entity was on track to achieve that result - with absolutely no variation - should have raised doubts in the minds of those reading the reports, and led to rigorous questioning of those preparing and presenting them.

Source: Bob Sendt & Associates 15 March 2016

Bob Sendt is a former director of six companies (including two as Board Chair and three as Chair of audit committee), a fellow of the Australian Institute of Company Directors, CPA Australia, and the Institute of Public Accountants, and a former Administrator of the National Health Funding Pool and NSW Auditor-General. As Principal of Bob Sendt & Associates, Bob Sendt has undertaken consultancy tasks for: NSW Health Department – review St Vincent's Public Hospital financial management and funding arrangements with government, and Sydney West Area Health Service – review funding and contractual arrangements with Hawkesbury District Health Service Ltd.



## Audit reports

<b>Reports Published in 2015-16</b>	
Report No. 10 – 2015	2014-15 Financial Audits
Report No. 09 – 2015	Public Transport: The Frequent Network
Report No. 08 – 2015	Annual Report 2014-15
<b>Reports Published in 2014-15</b>	
Report No. 07 – 2015	Sale of ACTTAB
Report No. 06 – 2015	Bulk Water Alliance
Report No. 05 – 2015	Integrity of Data in the Health Directorate
Report No. 04 – 2015	ACT Government support to the University of Canberra for affordable student accommodation
Report No. 03 – 2015	Restoration of the Lower Cotter Catchment
Report No. 02 – 2015	The rehabilitation of male detainees at the Alexander Maconochie Centre
Report No. 01 – 2015	Debt Management
Report No. 07 – 2014	2013-14 Financial Audits
Report No. 06 – 2014	Annual Report 2013-14
<b>Reports Published in 2013-14</b>	
Report No. 05 – 2014	Capital Works Reporting
Report No. 04 – 2014	Gastroenterology & Hepatology Unit, Canberra Hospital
Report No. 03 – 2014	Single Dwelling Development Assessments
Report No. 02 – 2014	The Water and Sewerage Pricing Process
Report No. 01 – 2014	Speed Cameras in the ACT
Report No. 08 – 2013	Management of Funding for Community Services
Report No. 07 – 2013	2012-13 Financial Audits
Report No. 06 – 2013	ACT Auditor-General's Office Annual Report 2012-13
Report No. 05 – 2013	Bushfire Preparedness
<b>Reports Published in 2012-13</b>	
Report No. 04 – 2013	National Partnership Agreement on Homelessness
Report No. 03 – 2013	ACT Government Parking Operations
Report No. 02 – 2013	Executive Remuneration Disclosed in ACTEW Corporation Limited's (ACTEW) 2010-11 Financial Statements and Annual Report 2011
Report No. 01 – 2013	Care and Protection System
Report No. 10 – 2012	2011-12 Financial Audits
Report No. 09 – 2012	Grants of Legal Assistance
Report No. 08 – 2012	Australian Capital Territory Public Service Recruitment Practices
Report No. 07 – 2012	Annual Report 2011-12
Report No. 06 – 2012	Emergency Department Performance Information

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