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**Ensuring PAC recommendations are implemented –
role play and presentation**

by

The Hon Jim Wilkinson, MLC

Chair, Public Accounts Committee Tasmania

and

Mike Blake,

Auditor-General, Tasmania

This paper

This paper is in two parts. Firstly, it deals with the implications of Tasmania's new Audit Act and secondly, it deals with the relationship between the Tasmania's Public Accounts Committee and the Auditor-General and how the new Audit Act leads to opportunities for enhancing this relationship enabling a stronger likelihood that recommendations made by the PAC will be implemented.

Aspects of Tasmania's new Audit Act

Background

A new Audit Act in Tasmania, along with an existing, but now reinforced, Statement of Understanding between the PAC and the A-G, will lead to a strengthening of the relationship between them, improved governance and accountability and the stronger probability that the PAC and the A-G will tackle matters of relevance leading to the stronger likelihood that PAC recommendations will be implemented.

Introduction

On 1 March 2009 the Tasmanian *Audit Act 2008* became law replacing previous audit provisions in the *Financial Management and Audit Act 1990*. Its development by the Department of Treasury and Finance included close consultation with the A-G, all public sector entities were given an opportunity to comment and the Australasian Council of Auditors-General (ACAG) was also consulted. Audit legislation in other jurisdictions was considered as part of the process.

This part of this paper highlights, by using a question and answer format, aspects of the Audit Act that will lead to improvements in governance and accountability and a strengthening of what is already an effective relationship.

Q Does the Act clarify which agencies are embraced by public sector audit?

Answer – yes. The Act introduces the concept of a State entity which includes agencies, local government councils and joint authorities or companies established by them, Government Business Enterprises, State-owned companies, other State authorities and the council, board, trust or trustees, or other governing body that is or are appointed by the Governor or a Minister of the Crown.

Also included are subsidiaries of State entities. In addition, State entities must inform the A-G annually of the formation of any new subsidiary entities and if it performs any of its functions in partnership or jointly with another person or body or through the instrumentality of another person or body or by means of a trust.

The intent here was to capture all public sector entities regardless of the organizational structure.

Q Have there been any changes to the arrangements for appointing the Auditor-General?

Answer – Yes. The A-G is appointed by the Governor on the recommendation of the Treasurer. However, the Treasurer must consult with the PAC, the President of the Legislative Council and the Speaker of the House of Assembly in relation to the appointment.

Before performing the functions and exercising the powers of the A-G for the first time, the A-G must make a declaration before the Governor.

The appointment is for a term not exceeding 10 years.

Previously, the A-G was appointed by the Governor on the recommendation of the Government. There was no need to make a declaration and the term was for five years renewable by government.

The A-G's remuneration continues to be fixed by law.

Q Is the A-G independent of the government of the day and of State entities?

Answer – Yes, now explicitly so. The Audit Act requires notes that the A-G is authorised and required to act independently in relation to the performance of his/her functions and, subject to this Act and other written laws, has complete discretion in the performance of those functions. In particular, the A-G is not subject to direction from anyone in relation to –

- (a) whether or not a particular audit is to be conducted; or
- (b) the way in which a particular audit is to be conducted; or
- (c) whether or not a particular report is to be made; or
- (d) what is to be included in a particular report; or
- (e) the priority to be given to any particular matter.

Q Can anyone direct the A-G to conduct an audit or investigation?

No. However, the Act includes specific provision under which the A-G may carry out any audit that the Treasurer requests the A-G to carry out. In addition, where a grant or advance of money is made by the Government to a person for specific purposes, the Treasurer may request the A-G to audit the accounts of that person to ascertain whether the money granted or advanced has been expended in accordance with the purposes of the grant or advance.

Also, the Act includes specific provision under which the A-G may carry out any audit that the Public Accounts Committee requests the A-G to carry out. This is discussed again later in this paper.

And, if the Ombudsman requests the A-G to investigate any matter under the Public Interest Disclosures Act 2002, the A-G may carry out that investigation.

In practice Members of Parliament and members of the public also request the A-G to conduct audits or investigations. The A-G has established protocols which are applied when considering such requests.

Q Does the A-G charge fees for the financial statement audit work conducted and if so, does this not reduce the A-G's independence?

Answer – yes, the A-G charges fees for conducting financial statement audits. The A-G is required to detail in a public report the basis upon which fees are charged. If State entities wish to challenge the fees charged they can seek a review by the Government Prices Oversight Commission who can charge the State entity to conduct the assessment. Fees charged must be paid.

The question of independence is a good one. Absolute independence is only possible where the A-G's total budget is met in full by Parliamentary appropriation. However, making the basis for setting fees public and involving GPOC where necessary has the advantage of transparency and efficiency.

Q How is the A-G held accountable for the efficient, effective and transparent operations of the A-G's office?

There are a number of ways in which the A-G is held to account:

Firstly, preparation of the A-G's annual plan – this is discussed later in this paper.

Secondly, the Tasmanian Audit Office's annual report must be tabled in the Parliament within a specified timeframe. This report must include audited financial statements which must be submitted for audit and audited in the same timeframes as other State entities.

Thirdly, the Tasmanian Audit Office is to be subject to a review of the efficiency, effectiveness and economy of its operations at least once in every period of 5 years. The independent auditor may be engaged to conduct the review or the Treasurer is to appoint a registered company auditor within the meaning of the Corporations Act to conduct the review. In doing so, the Treasurer is to consult with the A-G in regard to the terms and conditions of an appointment. The findings of the review are to be submitted to the PAC.

The A-G is also required to have regard to Australian Auditing and Assurance standards in the conduct of audit work.

Q Have any steps been taken to improve the timeliness by which State entities must complete and submit their annual financial statements to the A-G?

Yes, there have been two important changes regarding timeliness of financial reporting:

Firstly, while some transitional arrangements have been allowed, all State entities must now submit their financial statements, complete in all material respects, to the A-G within 45 days of financial year end.

Secondly, the A-G must complete the audits within 45 days of receipt of the financial statements. The intention is that, by 30 September each year, the financial reporting process will be complete.

Q Can the A-G dispense with the conduct of any audits?

Answer – Yes, although this is not a new provision. In doing so, the A-G must consult with the Treasurer and entities must satisfy conditions imposed by the A-G.

Q Can the A-G conduct audits of the efficiency, effectiveness and economy of state entities?

Yes, although this is not new. However what has been clarified is that the A-G can also conduct compliance audits. This authority applies to all State entities and to audits dispensed with.

The A-G can also continue to conduct investigations into matters relating to public expenditure and public property.

Q – Can the A-G “follow the dollar”?

Yes, although this is not new. Under the Audit Act, the A-G may at any time carry out an examination or investigation investigating any matter relating to public money or other money, or to public property or other property.

In addition, as previously noted, the A-G may carry out any audit that the Treasurer requests and the A-G may enter into an arrangement with any person or body to carry out an audit for or in relation to the person or body or provide services to a person or body that are of a kind commonly performed by auditors.

Q Does the A-G have to report to any Minister during or at the completion of any audit?

The A-G prepares two types of reports for Parliament:

Firstly, reports following completion of the audits of financial statements – in these cases, the A-G must notify the Treasurer and any relevant Minister of his/her intention to table the report five days in advance.

Secondly, reports following the conduct of performance or compliance audits or investigations. In these cases, the A-G must provide the Treasurer with a summary of findings and the A-G may provide such a summary to the relevant Minister. The Treasurer or Minister may make submissions or comments on the content of the summary of findings before a specified day, being a day not less than 3 working days after the summary of findings is provided.

Q Is the A-G required to keep confidential information obtained as part of the conduct of audits?

Yes. This is now an explicit requirement.

Q Who sets the A-G’s budget and is the PAC consulted in this process?

The A-G’s budget is agreed between the A-G and Cabinet via Treasury. The PAC plays no role.

Q Is the PAC required to consider and follow up reports tabled by the A-G?

In Tasmania the PAC may inquire into, consider and report to the Parliament on any matter referred to the Committee by the A-G. In addition, under the Statement of Understanding between the PAC and the A-G, the PAC can respond to the Auditor-General’s reports and the Committee will also make known its intention, if any, to follow up a matter raised by the A-G, by way of a hearing, broader inquiry or some other means of follow-up.

In providing this response it is acknowledged that in other jurisdiction, for example the Commonwealth of Australia and Queensland, respective PACs, or equivalent, have a formal requirement to follow up reports by their A-G.

2 Opportunities provided by the Audit Act for the PAC

The Audit Act 2008 provides an opportunity for the Public Accounts Committee and Auditor-General to work more closely providing an enhanced accountability framework for the Tasmania. There are a number of changes that will allow both bodies to be more effective. The role of the Public Accounts Committee in shaping the annual plan of the Auditor-General and the ability to refer matters to the Auditor-General directly should improve the Public Accounts Committee's ability to elicit responses from Government to its concerns and recommendations.

In the new Audit Act (s. 9) the Public Accounts Committee has a formal role in the appointment of the Auditor-General. This section requires the Public Accounts Committee to be consulted but does not give any role in selection or a veto as occurs in some other jurisdictions.

The Public Accounts Committee is now involved in shaping the Auditor-General's annual plan with a formal requirement for it to receive and consider the draft annual plan (s. 11). These new arrangements will greatly improve the formal interaction between the Auditor-General and Public Accounts Committee and allow a best use of the combined resources in monitoring and over sighting government expenditure. The interaction provided by the Public Accounts Committees role in the Auditor-General annual plan allows a level of coordination never before possible.

The new Act (s. 30) also allows the Auditor-General to submit a report to the Public Accounts Committee as well as to both Houses of Parliament. This further cements the close relationship that has always existed between the Public Accounts Committee and Auditor-General in Tasmania.

The new Act gives a specific power for the Public Accounts Committee to request that the Auditor-General look at a reference.

"25. Audits at request of Public Accounts Committee

The Auditor-General may carry out any audit that the Public Accounts Committee requests the Auditor-General to carry out."

The Auditor-General has for some time been subject to voluntary reviews of the Office. The outcomes from those reviews have been shared with the PAC, again on a voluntary basis. Under the new Act (s. 44) the Public Accounts Committee is kept informed of the review of the Audit office and is to be provided with a copy of the review.

Section (s. 46 (3) (a)) allows full communication of information between the Auditor-General and Public Accounts Committee. The Auditor-General is authorised to provide information provided in confidence to the Public Accounts Committee. This will greatly assist the Public Accounts Committee in performing its duties and fully investigating the matters that come before it.

In addition to the legislated provisions there is also a Statement of Understanding between the Auditor-General and the Public Accounts Committee which provides a clear basis for cooperation between the two entities.

“Aim

The aim of this Statement of Understanding is to enhance the accountability mechanisms of the Parliament by improving communication and coordination between the Tasmanian Parliamentary Standing Committee of Public Accounts and the Auditor-General of Tasmania.”

The Statement of Understanding between the Auditor-General and Public Accounts Committee in Tasmania is very useful and important. For many years the relationship between the Auditor-General and Public Accounts Committee has been very close and effective but has operated on an informal basis. Difficulties with this approach include:

- Neither side clearly understands the limits or scope of the arrangements.
- With time and change of Public Accounts Committee membership, and Auditor-Generals the understanding of how these relationships operate could be lost.

The Statement of Understanding is not a detailed proscriptive document but instead reinforces the important and close relationship between the Public Accounts Committee and Auditor-General. The thrust of the Statement of Understanding is to enunciate the important roles of both bodies and articulate the mutual support for the goals of both.

This sort of cooperation and support is very important in making the Public Accounts Committee an effective and respected entity, thus enhancing the recommendations and hopefully leading to implementation of recommendations made.