

Australasian Council of Public Accounts Committees (ACPAC) Conference

Public Accounts Committees: Adapting to a changing
environment

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From Federation to follow the dollar

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Overview

- **Then**
 - The ages and stages of audit legislation
- **Now**
 - Public sector audit legislation
- **Next**
 - Keeping up with new kinds of government
- **Discussion**

Then: Stages of audit legislation

- Colonial times
 - Colonial auditors/Boards of Audit reporting back to Westminster
- 1901-1960's Creation of institutional audit role
 - 1901 Federation: Passage of Audit Acts and establishment of Auditors-General, tenured and reporting to Parliament
 - '1960ish' Acts amended to introduce discretion for Auditor-General to determine the 'extent of check' ie scope of audit
 - Attest audit of transactions
 - Year-round
 - Often staff based in agencies

Stages of audit legislation (Cont'd)

- 1970s-80s Controversially Auditors-General began to do '**value for money**' auditing
- Amendments to legislation to give 'economic, efficiency and effectiveness' mandate and broader powers to access information, and
- Financial audit of **systems**
- Offset broader powers with **new accountability provisions**, eg audit of audit office, performance audits of audit offices

Stages of audit legislation (Cont'd)

- 2000 Independence established by law
 - 'complete discretion in the performance or exercise of functions or powers and, in particular is not subject to direction from anyone' eg Vic Constitution Act 1975, s94B
 - Offset by closer oversight provisions, eg PAEC consultation on Annual Plan and individual performance audit plans
- This means freedom to:
 - Select topics and audits
 - Determine timing and priority

How do we assess where audit legislation should go from here?

- INTOSAI Principles
 - Mexico Declaration

International standards

- Suggest the following key elements (INTOSAI Principles 2007)
 - Independence guaranteed by law
 - Broad mandate and functions
 - Unrestricted access to information
 - Report freely on their work to public and Parliament
 - Follow up mechanisms are in place
 - Office has managerial/financial autonomy

Now: Victorian audit legislation (case study)

- Now focus on present day legislative framework
- In particular, how can international principles for effective independent accountability bodies help us understand our current arrangements
- How do current jurisdictions 'stack up' against this best practice?

Now: Public sector audit legislation

- Broad mandate and functions
 - Financial audit (Annual attest audit)
 - Determine whether financial reports prepared by agencies present fairly the financial position and financial results of the State and individual entities, in terms of Australian accounting and auditing standards-**risk based/reasonable assurance**
 - Performance audit (Direct reporting)
 - Determine whether an authority is achieving its objectives effectively and doing so economically and efficiently and in compliance with all relevant Acts-**selective**

Broad mandate and functions

- Performance audit determines whether
 - Authorities are achieving their objectives
 - Financial benefits given by the state to non-government bodies are being applied economically, efficiently and effectively and for the purposes for which they are given
- However
 - **Not** to question merits of policy objectives
 - Does not apply to all use of public funds, or all entities established by legislation or all entities controlled by government bodies
 - Does not apply to administration of courts or Parliament

Unrestricted access to information

- VAGO has broad powers to access information
- 'No obligation to maintain secrecy ... applies to the disclosure of information required by the Auditor-General'
 - Overrides 'any enactment or rule of law', 'Cabinet confidentiality
 - Includes search and seizure powers
 - Can compel individuals to provide evidence
- **Balanced by:**
 - Strict confidentiality provisions
 - Protections for collected information, eg FOI exemption
- **However**
 - Cannot access information held by private sector providers
 - Specific provisions can still override access, eg Public Health and Wellbeing Act 2008

Report freely to public and Parliament

- Victoria compares well with other Westminster democracies
- Victoria's Auditor-General:
 - Reports directly to Parliament, through Presiding Officers
 - Has discretion on the timing and contents of reports, 'may' make a report on any one or more audits
 - Must give a copy of the proposed report to any authority with a 'special interest' and ask for submissions
- However
 - Must include agency submissions in report, this weakens the discretion regarding the content of the report

Follow up mechanisms are in place

- Audit act 1994 does not require the Auditor-General to follow up the implementation of audit recommendations
 - This is positive – in professional terms this would confuse (overstep) the role of the external auditor
- Victorian Government and Parliament follow ups:
 - PAEC follow up inquiries – robust program
 - Previous Ministers for Finance/DTF issued an annual situation report on department's action on audit recommendations

Financial and managerial autonomy

- VAGO can be exposed to Executive control through office management and finances
 - VAGO is subject to much administrative legislation of the public sector, as employees are public servants
 - Budget is determined by the Executive
- Some protections
 - Budget determined 'in consultation' with PAEC
 - PAEC can exempt VAGO from obligations in Financial Management Act 1994 or Public Administration Act 2004

So how do we shape up?

- Mostly meet standards of:
 - Independence
 - Access to information
 - Reporting
 - Follow up
 - autonomy
- **BUT evident shortcomings:**
 - In 'application' of principle of **broad mandate and function**

Changing face of government: impact on audit

- To finish: I will highlight three evident trends in service delivery that:
 - Challenge (or 'erode') traditional accountability models and the audit mandate
 - Suggest a need for legislative reform
- These are:
 - 1 Arm's length service delivery
 - 2 Increased community expectations of public sector performance and accountability
 - 3 Joined up government – 'New Federalism'

Arm's length service delivery

- Increasing use of private sector to deliver public service
 - Eg contracting out, PPPs, alliances
- The Audit Act 1994 defines audit access via **legal status** of entity, not source of funds
 - Should **means of delivery determine level of accountability?**
- Currently – limited access via contracts
 - Not compulsory
 - Too narrow
 - Relies on voluntary participation by private partners
- Contractual solutions are not sufficient

Performance and accountability

- Increasingly high community/stakeholder expectations of being able to monitor the performance of government
 - Performance reporting is becoming more and more common
 - Agency annual reports often contain performance measures and other information
- However:
 - Legislation requires annual assurance of **financial reports only – not performance**
 - Assurance audits of performance statements have been mandatory in some jurisdictions for decades

Joined up government

- Public services now delivered:
 - Not just by mixture of public and private but,
 - Often through partnerships between different governments, eg State/State, State/Commonwealth
- Victoria's legislation does **not** allow for VAGO to undertake joint audits across Australian jurisdictions (eg Canadian model)

Conclusion

- This is a time of great change for accountability legislation across Australia
 - After creation of a legislative auditor, introduction of performance auditing, strengthening independence.....
 - This next wave of reforms in this century needs to facilitate ways to help Parliament to continue to hold the Executive to account and to meet new kinds of community expectations.