



The Queensland Public Accounts Committee

Presentation to:

Australasian Council of Public Accounts Committees (ACPAC) Conference

The role of PACs in safeguarding the independence of Auditors-General

Introduction

The paper examines the role of Public Accounts Committees in safeguarding the independence of the Auditor-General.

One of the primary functions of all parliamentary committees is to support the scrutiny and accountability role of the parliament.

The JCPA reported in 1996 on *Guarding the Independence of the Auditor-General*. That committee believed at the time that the community expects the parliament to hold the executive to account for the use of public funds. And the Parliament in turn relies on the Auditor-General to provide expert, independent advice to help it to fulfil its functions of scrutinising executive agencies. The Auditor-General performs a function which the Parliament requires but lacks the technical expertise and resources to exercise.¹ This still holds true today.

To assist Parliament in holding the government to account, the Auditor-General is empowered to examine government accounts. It is through this work that MPs obtain the information to judge whether the government has spent public funds for the purposes authorised by Parliament and that public resources are used economically and efficiently.²

The Auditor-General's office performs a role which the Parliament is not equipped to itself perform. The work of the Auditor-General provides a link in the chain of accountability from the government to the Parliament. The Auditor-General has the resources, knowledge and technical expertise required to assess whether public sector entities financial statements are represented fairly and comply with relevant laws and standards.

The Auditor-General submits reports to the Parliament through the Speaker and not a part of the government itself. This independence from the government of the day is vital if the audit office is to perform its work effectively and make unbiased judgements. The Auditor-General must be free of obligations to any individual or institution and be free from fear of arbitrary dismissal or retaliation. The Auditor-General works for the Parliament, not the government of the day.³

It is not only PACs that rely on the work of the Auditor-General. All MPs use Auditor-General's reports, often in ways that are not highly visible, in the business of the Parliament. The Auditor-General's work is often referred to as an authoritative, independent and objective source of information.⁴

¹ Parliament of the Commonwealth of Australia Joint Committee of Public Accounts, *Report No 346 – Guarding the Independence of the Auditor-General*, October 1996: 6

² Dubois, Raymond, 'Accountability in Parliament: the role of the Auditor-General', *Canadian Parliamentary Review*, Vol 13 no 1, Spring 1990
<<http://www.parl.gc.ca/InfoParl/english/issue.htm?param=132&art=846>>[21/3/07]

³ Dubois, Raymond, 'Accountability in Parliament: the role of the Auditor-General', *Canadian Parliamentary Review*, Vol 13 no 1, Spring 1990
<<http://www.parl.gc.ca/InfoParl/english/issue.htm?param=132&art=846>>[21/3/07]

⁴ Dubois, Raymond, 'Accountability in Parliament: the role of the Auditor-General', *Canadian Parliamentary Review*, Vol 13 no 1, Spring 1990
<<http://www.parl.gc.ca/InfoParl/english/issue.htm?param=132&art=846>>[21/3/07]

The Auditor-General's office services Parliamentary committees by providing independent and objective information on value for money issues in government. Committees take the work of the Auditor-General one more step forward in the form of public exposure and recommendations to the Parliament.

Public Accounts Committees

Public Accounts Committees provide a nexus between the audit office and the Parliament and most committees in Australia enjoy strong working relationships with their respective Auditors-General. Independence, both actual and perceived is crucial. The 'blue ribbon' audit certificate is held in high regard because of that independence.

The relationship between parliament and the audit institution varies. Generally, however, the PAC is the primary audience of the Auditor-General. PAC depends on high quality audit reporting to be effective. The Auditor-General in turn requires an effective PAC to ensure audit recommendations are taken seriously.

The La Trobe University Public Sector Governance and Accountability Research Centre (PSGARC) recently commissioned a report by KPMG's Government Advisory Services examining the structures, responsibilities and working practices of PACs in Australia and New Zealand. The report examined various aspects of how PACs operate. The issues relating to the relationship with the Auditor-General are summarised on the table below:

	ACT	NSW	NT	Qld	SA	Tas	Vic	WA	Aus	NZ
Auditor-General inquiries and reporting:										
The committee has formal responsibility for the examination of Auditor-General reports	Yes	Yes	Yes	Yes			Yes	Yes	Yes	Yes
The committee has the formal power to refer matters to the Auditor-General for examination				Yes			Yes		Yes	Yes
Committee not formally required to review Auditor-General reports but maintains a working relationship					Yes	Yes				
Appointment of Auditor-General:										
The committee must be formally consulted in the appointment of the Auditor-General				Yes						
The committee has the power to veto the appointment of the Auditor-General	Yes	Yes							Yes	
The committee undertakes the selection process and recommends appointment of the Auditor-General							Yes			

Removal of Auditor-General:										
the committee must be formally consulted prior to a motion to remove the Auditor-General				Yes						
Involvement in Audit Office Funding and Planning:										
The committee has formal responsibility for the consideration of Audit Office funding/budget estimates	Yes			Yes			Yes		Yes	
The committee must formally be consulted in determination of Audit Office priorities/annual planning				Yes			Yes		Yes	Yes
Independent Review of Audit Office:										
The committee is responsible, or must be formally consulted, in the appointment and removal of the independent auditor of the Audit Office							Yes		Yes	
The committee is formally involved in the strategic review of Audit Office performance		Yes	Yes	Yes			Yes		Yes	

Source: KPMG Government Advisory Services, *The Parliamentary Public Accounts Committee: an Australian and New Zealand Perspective* February 2006: 17 & 42

Independence of the Auditor-General

Under the Westminster system of government the Auditor-General plays a crucial role in assisting the Parliament to hold the government to account for its use of public money. The Auditor-General does this by providing an independent view of performance and financial management of public sector entities.

In 1984 the then Commonwealth Auditor-General said:

Audit independence and audit effectiveness can amount to much the same thing. If an auditor does not enjoy independence from the bodies subject to audit it will be only a matter of time before some measure of control by auditees becomes apparent. When that happens, the effectiveness of the audit process will inevitably suffer. In practical terms, impairment of the auditor's independence is synonymous with impairment of audit effectiveness.⁵

⁵ Parliament of the Commonwealth of Australia Joint Committee of Public Accounts, *Report No 346 – Guarding the Independence of the Auditor-General*, October 1996: 9

The Australasian Council of Auditors-General (ACAG) considers that the following principles should apply to Auditors-General.

- *The role of the Auditor-General is derived from the functions of Parliament. The role exists to provide Parliament with independently derived audit information about the executive arm of government*
- *To be effective the Auditor-General must be seen to be independent and competent. The Auditor-General must:*
 - *be free from direction by the Executive Government, and free from political bias; and*
 - *have the means to acquire the resources necessary to do the job properly*
- *Parliament should desirably appoint the auditor of all entities which are part of the Executive Government. Parliament may appropriately delegate the right to appoint the auditor to someone else if Parliament decides it does not have a primary interest in scrutinising the performance of the entity concerned. Parliament should desirably appoint the Auditor-General whenever it exercises the right to appoint the auditor of an entity.*
- *The Auditor-General must be fully accountable for the performance and use of public resources in discharging the mandate of the office. The Auditor-General must be primarily accountable to Parliament (not the Executive Government) in a manner consistent with the office's independence.*⁶

Relationship between the Auditor-General and the PAC

As can be seen in the table above most Public Accounts Committees do not have a traditional oversight role. The PAC is not charged with monitoring and reviewing the functions and performance of the Auditor-General's office. The Auditor-General is independent of both parliament and the executive. Most PACs do, however, enjoy a professional and cooperative working relationship with the audit office. The committee also fulfils a statutory duty in ensuring that the Auditor-General's independence is not compromised.

In 2001 Commonwealth Parliamentary Association (CPA) convened a working group to examine how accountability can and does function at the level of the Public Accounts Committee. This group found that an important part of a PAC's mandate is to help ensure the independence of the Auditor-General and to bolster the effectiveness of that office. They found that the PAC's role is derived from that of the Auditor-General rather than the PAC being an investigative body in its own right.⁷

⁶ Australasian Council of Auditors-General, <http://www.acag.org.au/acagrole.htm#account> [21/3/07]

⁷ McGee, DG, 2002, *The Overseers – Public Accounts Committees and Public Spending*, Pluto Press, London: 57

Part of the accountability process is served when the Auditor-General's report is tabled in the Parliament. It is further served when the report is broken into chewable chunks by a committee, digested in some detail in the course of hearings and deliberations, and when the committee reports back to the Parliament, in effect telling the Parliament what must be done as a result of their analysis.⁸

The PAC is a particularly effective accountability mechanism for the Parliament when they secure commitments from or make recommendations to government for particular action in response to the Auditor-Generals work. By operating at a level of detail and by following up on their work committees perform a function essential to accountability that the Parliament itself could not possibly perform, given all the demands on it.⁹

Once the Auditor-General's reports are tabled in the parliament, the Parliament itself or its committees must ensure that recommendations made are implemented. The Auditor-General has not power to ensure this occurs.

The committee provides a public forum for the further examination of government activities. The PAC can provide strength to the Auditor-General's inquiries. It can draw attention and notice to issues raised by the Auditor-General. Media coverage of Auditor-General reports generally focuses on sensational items, rather than the more substantive and complex issues. PACs offer an avenue for the Auditor-General and public sector agencies to both present their perspectives on an issue in a public forum. PACs provide additional public and visible pressure on governments to change or account for their actions. While reports and recommendations may not have immediate influence, they remain part of the public record.¹⁰

The CPA study group found that for a PAC to function it requires the information essential to a proper assessment of the governance and performance issues it wishes to address. In most countries this is largely provided by an independent state auditor. It is the Auditor-General's role to help ensure that the use of public sector resources is adequately accounted for by the government, both by the extensive independent audit, and report work carried out by the office and by supporting the work of the PAC. The PAC and the Auditor-General are separate organisations, with separate mandates and complementary roles. Together PACs and Auditors-General are essential components of democratic accountability.¹¹

⁸ Dubois, Raymond, 'Accountability in Parliament: the role of the Auditor-General', *Canadian Parliamentary Review*, Vol 13 no 1, Spring 1990

<<http://www.parl.gc.ca/InfoParl/english/issue.htm?param=132&art=846>>[21/3/07]

⁹ Dubois, Raymond, 'Accountability in Parliament: the role of the Auditor-General', *Canadian Parliamentary Review*, Vol 13 no 1, Spring 1990

<<http://www.parl.gc.ca/InfoParl/english/issue.htm?param=132&art=846>>[21/3/07]

¹⁰ Malloy, Jonathan, Commission of Inquiry into the Sponsorship Program and Advertising Activities [Canada], Restoring Accountability - Research Studies Volume 1, The Standing Committee on Public Accounts: 82

<http://dsp-psd.pwgsc.gc.ca/Collection/GomeryII/ResearchStudies1/CISPAA_Vol1_3.pdf>[21/03/07]

¹¹ McGee, DG, 2002, *The Overseers – Public Accounts Committees and Public Spending*, Pluto Press, London: 12

The study group found that the relationship between the Auditor-General and the PAC has evolved differently in different jurisdictions and can range from no apparent contact at all to a relationship that is almost exclusively reciprocal with the Auditor-General reporting solely to the PAC and the PAC relying exclusively on the Auditor-General's report as a source for its inquiries.¹² In general, regardless of the closeness of the relationship with the PAC, one would expect that the principal way in which expression is given to the Auditor-General's position as an Officer of the parliament is the working relationship with the PAC.

Public Accounts Committees also assist in protecting the independence of audit offices through their input into the resourcing of the office. The issue of the resourcing was examined by the JCPA. They noted that the proper resourcing of the Auditor-General's office is integral to the functional independence of the office. It noted that it is the role of the Parliament as the Auditor-General's 'employer' to take responsibility for ensuring that audit functions are adequately resourced. They also highlighted the problem that the government controls the funding for all public sector entities, including the Parliament itself.¹³ Each jurisdiction has its own way of managing this paradox through consultation and other such methods.

How do PACs protect the Auditor-General's independence: some examples

This section of the paper focuses on providing three different examples examining the relationship between the Auditor-General and the Public Accounts Committee

The first looks at the involvement of the Public Accounts Committee when the Auditor-General's office is under threat by the government. The second examines what happens when the work of the Auditor-General becomes politically controversial and the third examines what the Public Accounts Committee can do when it considers that the Auditor-General is taking the audit office in a direction that may compromise the independence of the office.

Victoria

The first of these examples is in Victoria in 1997. The Kennett government legislated amendments to the Audit Act. The changes left the independent statutory offices intact but gave administrative powers to others. The Auditor-General was required to commission work to be carried out by a separate government body (Audit Victoria) or private auditors. The aim was to reconcile independence, efficiency and accountability for administrative expenses of the statutory offices, but the separation of administrative control and statutory responsibilities attracted strong criticism.

Considerable controversy followed, with the changes viewed by many, including the then Auditor-General and members of the Liberal party, as an attempt to weaken the independence of the Auditor-General.

¹² McGee, DG, 2002, *The Overseers – Public Accounts Committees and Public Spending*, Pluto Press, London: 31

¹³ Parliament of the Commonwealth of Australia Joint Committee of Public Accounts, *Report No 346 – Guarding the Independence of the Auditor-General*, October 1996: 28-29

Victorian Liberal Minister, Roger Pescott, resigned his state seat in protest against the legislation to restructure the Office of the Auditor General. Mr Pescott wrote in his letter of resignation that *the role of the Auditor-General does not lend itself to competition with the private sector. In the same way, opening the administration of police stations for competition with private security firms would be a joke. Further he wrote whoever heard of an auditor without the capacity to audit? It would be like the Chief Commissioner of Police having no direct control over the police force.*¹⁴ Several other MPs abstained from voting.

The changes were strenuously opposed by the then Victorian Auditor-General, Ches Baragwanath. Mr Baragwanath retired in July 1999. Upon his retirement Mr Baragwanath is quoted as saying that *'every time rights are unilaterally or worse, retrospectively, removed by government decree or regulation, we should be massing in the streets to campaign against such erosion of liberty and to prevent them ever again being subject to threat'*¹⁵

Before the 1999 state election, the Labor Party made an election commitment to Victorians to strengthen the role of the Auditor-General. The Bracks government made significant changes to the *Audit Act* 1994 and the *Constitution Act* 1975, which gave greater functional authority to the Auditor-General.¹⁶

In February 2006 the Victorian Public Accounts and Estimates Committee reported on their inquiry into the legislative framework of independent officers of Parliament. This inquiry was commenced in 1999 following representations from the Auditor-General that his role, functions and powers and his relationship to Parliament be clarified. The committee of the 54th Parliament (November 1999 – October 2002) commenced the inquiry, however, in late 1999, the government made substantial changes to the *Audit Act* and the *Constitution Act* to improve the functional independence of the office of the Auditor-General and the Premier suggested that it postpone the inquiry until the commencement of the 55th Parliament (February 2003 – October 2006) to allow sufficient time for the new arrangements to be effected and any deficiencies identified.¹⁷

The Victorian PAEC made recommendations that further strengthen and provide for consistency in arrangements for the independent officers of the Victorian Parliament.

Canada

At the ACPAC conference in Melbourne in 2003, John Williams, the Chair of the Canadian Standing Committee of Public Accounts told the conference that in the Spring of 2002, serious allegations were made about the management of advertising and sponsorship contracts by the Government of Canada.

¹⁴ Victorian Legislative Assembly, Mr S Bracks, Second Reading Speech, *Parliamentary Debates (Hansard)*, 12 November 1997: 999

¹⁵ Singer, Jill, 'Baragwanath urges street demonstrations against Kennett', *7:30 Report*, 26 August 1999 <<http://www.abc.net.au/7.30/stories/s47034.htm>>[21/03/07]

¹⁶ Victoria Public Accounts and Estimates Committee, *Report on a legislative framework for independent officers of Parliament*, February 2006: 19

¹⁷ Victoria Public Accounts and Estimates Committee, *Report on a legislative framework for independent officers of Parliament*, February 2006: 19

The Canadian government asked the Auditor-General to investigate and report on three specific advertising and sponsorship contracts which were the cause of much public debate. The Auditor-General reported that 'every rule on the book had been broken'. The government referred the matter to the police, however, the PAC decided to hold hearings on the matter. Mr Williams noted that normally committees refrain from holding hearings on issues that are under police investigation but the committee decided to pursue the matter on the basis that their focus was to understand and report on the maladministration and the breakdown of procedures within the government rather than investigate criminal activity.¹⁸

The Canadian Government implemented a Commission of Inquiry into the Sponsorship Program and Advertising Activities headed by Justice John Gomery. This inquiry became known as the Gomery Commission and made daily television news headlines in that country. The enquiry was conducted in two parts with the first part identifying what happened and who was responsible. The second part examined ways of restoring accountability.

Justice Gomery examined the role of the Public Accounts Committee. The Gomery commission was critical of the role played by the Public Accounts Committee in this affair. He noted that the committee had not been consistently non-partisan in its operations.

The following is an extract from Justice Gomery's report and what he had to say about the Public Accounts Committee.

Early in 2004 the committee conducted an investigation based on the Auditor-General's November 2003 report into the Sponsorship Program. This investigation was wracked by partisanship. Interparty conflict was common, with recorded votes taken on many issues. Though the committee hearings featured some thoughtful and detailed questioning of witnesses they also saw acrimonious and accusatory exchanges, although [theses were] normally between members rather than between members and witnesses.

Frequent changes in committee membership created a lack of continuity in proceedings. This investigation was well reported and succeeded in drawing attention to the issues raised in the Auditor-General's Report, but it also divided the Committee into warring party factions and did little to advance knowledge beyond what was already contained in the Auditor-General's report.

The problems in the Sponsorship Program implicated Ministers. The Opposition members of the committee therefore attacked the government, and government members protected the government

Immediately following this highly partisan investigation, the Public Accounts Committee investigated and reported on the responsibilities and accountabilities of Ministers and Deputy Ministers. ...Unlike its previous investigation into the Auditor-General's report, the Committee behaved in a non-partisan manner in conducting this investigation into accountability. The report was unanimously agreed to by all members of the Committee, and there were no dissenting or minority reports.

¹⁸ Williams, John, 'Protecting the Public Interest in the 21st Century', ACPAC conference paper, Melbourne 2003

The Canadian Public Accounts Committee's 2005 report succinctly highlights the role of they play - *The Auditor General has told Parliament and Canadians what happened. The Committee's role is of a different order. As a committee composed of elected representatives of the people of Canada, the Public Accounts Committee has been guided by a profound sense of its responsibility towards Canadians to establish first of all and to the best of its ability, how the abuses reported by the Auditor General occurred, why they occurred, to identify who is responsible, and to ensure that proper checks and balances are put in place to prevent a recurrence of a similar event.*¹⁹

The second example highlight clearly shows how the work of the Public Accounts Committees can value add to the work of the Auditor-General. The first is clearly an example of what can go wrong if partisan politics comes into play.

Queensland

In 2003 the Qld PAC examined the issue of whether the FA&A Act should be amended to permit the audit office to undertake other services not specified in the Act. The inquiry arose following advice from the Auditor-General that the audit office was pursuing a number of activities that did not appear to be within the scope of audit functions as set out in the legislated mandate.

The Auditor-General lodged a tender for the Institutional Strengthening Project for the Auditor-General's Office of Papua New Guinea (PNG) in conjunction with two private sector organisations, one of which is an international accounting firm with offices in Queensland. One of the issues that concerned the committee was the joint venture/partnership arrangement. The committee was concerned that with projects of this nature that the independence of the office could be compromised if partnering firms are later engaged as contract auditors for QAO.

The integrity of the Auditor-General's independence was of paramount importance to the committee. The view that an auditor should not only be independent but must also be seen to be independent is widely endorsed and is enunciated in CPA Australia's Statement of Auditing Standards:

- (a) *actual independence* is the achievement of actual freedom from bias, personal interest, prior commitment to an interest, or susceptibility to undue influence or pressure; and
- (b) *perceived independence* is the belief of financial report users that actual independence has been achieved.²⁰

It has been recognised that the perceived independence of auditors can be impaired by a range of financial, business and personal relationships including shareholdings, loans, acceptance of goods and services and the provision of management services. Generally, there are fewer problems in this regard for public sector auditors because of the nature of the auditees and because the Auditor-General has no authority to perform non-audit functions.²¹

¹⁹ House of Commons of Canada Standing Committee on Public Accounts, *Chapters 3 (The Sponsorship Program), 4 (Advertising activities) and 5 (Management of Public Opinion Research) of the November 2003 Report of the Auditor-General of Canada*, April 2005: 3

²⁰ CPA Australia, *Statement of Auditing Practice AUP32 – Audit Independence*

²¹ Wade, M and Andrew, B, *Reforming the ANAO: independence required*, Australian Accountant, February 1997:

Any erosion of this independence only weakens the Auditor-General's statutory function. Independence of the external auditor is fundamental to the reliability of and public trust in audit reports.²²

Recent high profile private sector corporate failures have highlighted concerns of auditors 'getting too close' to their clients through the performance of additional services for the client. In a submission to an inquiry by the Commonwealth Joint Committee of Public Accounts and Audit (JCPAA) on independent auditing, the NSW Auditor-General made the point that it has long been the practice of his office that contract audit firms must relinquish their right to provide any other service to the public sector agency for the duration of the contract, except with the Auditor-General's approval.²³

Further, in a lecture presented in the Department of the Senate Occasional Lecture Series in June 2002, the then Commonwealth Auditor-General commented that:

*Recent years have seen an increasing tendency to direct requests by ministers for audits of particular programs or issues. While this represents a useful measure of our ongoing relevance and credibility, it also has the potential to challenge the issue of the Auditor-General's independence. The office [the Australian National Audit Office] must ensure that, where direct requests for audits are accepted, such audits are in the public interest.*²⁴

The committee considered the desirability of QAO engaging in activities outside those specified in the Financial Administration and Audit Act and did not support any broadening of the mandate to incorporate the undertaking of commercial activities. Further, the reliance on general provisions in the Constitution of Queensland to undertake commercial activities was not supported. The reasons for this position are as follows:

- Firstly, unlike government departments, public service offices are established by statute with specific duties and responsibilities. To empower them to engage in any commercial activity might undermine their capacity to fulfil their statutory responsibilities, as well as place them beyond their accountability measures.
- Secondly, if such offices were to engage in commercial activities, this should be specifically authorised by the Parliament and the limits on their capacity including mechanisms of accountability should be carefully defined.
- Thirdly, for those bodies which are intended to be independent from the Executive, the conferral of power to engage in any commercial activity without parliamentary appropriation is inconsistent with the maintenance of that independence.
- Fourthly, the engagement in commercial activities, whether by the distraction of personnel in those other activities, the threat posed to its public funding or the risk of commercial failure, might compromise the perception of impartiality of the significant monitoring roles played as part of the accountability of the Executive.

<www.cpaonline.com.au/Archive/9702/pg_aa9702_reformanao.htm>

²² Parliament of the Commonwealth of Australia Joint Committee of Public Accounts and Audit, *Report No 391 – Review of Independent Auditing by Registered Company Auditors*, August 2002:7

²³ NSW Auditor-General <<http://www.audit.nsw.gov.au/JCPAA-31-5-02.pdf>>

²⁴ Barrett, P, *Auditing in a changing government environment* paper presented in the Department of the Senate Occasional Lecture Series, Canberra 21 June 2002:107

- Further to accord the Auditor-General the capacity to raise funds from commercial activities undermines the constitutional obligation of the Executive to ensure that the Auditor-General is adequately funded and hence undermines the independence of the office.

The government agreed with the committee that the QAO should not engage in commercial activities.

Conclusion

Overall Public Accounts Committees play a major role in both protecting the independence of the office of the Auditor-General and in highlighting the work of that office to ensure that appropriate action is taken to rectify issues identified. The integrity of the Auditor-General's independence is of paramount importance to Public Accounts Committees and they play an important role in protecting that independence.