

20 May 2016

Integrity Reform
Department of Premier & Cabinet
1 Treasury Place
Melbourne VIC 3002

Email: integrity.reform@dpc.vic.gov.au

Dear Mr Jennings and Mr Scott

The Victorian Auditor-General Discussion paper

Governance Institute of Australia (Governance Institute) is the only independent professional association with a sole focus on whole-of-organisation governance. Our education, support and networking opportunities for directors, company secretaries, governance professionals and risk managers are unrivalled.

Our members have primary responsibility to develop and implement governance frameworks in public listed, unlisted and private companies, as well as not-for-profit organisations (NFPs) and the public sector. Governance frameworks encompass formal and rigorous processes that independently verify and safeguard the stewardship of public sector resources. Ensuring the preservation of the integrity of these resources is vital in maintaining community confidence in government.

In keeping with our philosophies on good governance in the public sector; and further clarification of the discussion document, we provide the following response.

Question 1: How could the Auditor-General be given a role in auditing the administrative functions of the courts and parliament, without impinging on the independence of these institutions?

Governance Institute supports the Auditor-General auditing the administration of the courts and parliament — these are administrative units which are no different from any other administrative units within the public sector.

All Auditors-General already have a limitation on not questioning government policy and it could be made clear that the Auditor-General has no mandate to question the exercise of judicial or parliamentary authority, but should nevertheless have a mandate to audit the administrative functions of the courts and parliament as part of a public sector audit mandate.

Question 2: Should the Auditor-General be automatically appointed as auditor for state-controlled companies?

Governance Institute notes that the Auditor-General is already automatically appointed as auditor for state-controlled companies under the current legislation. Governance Institute strongly supports this automatic appointment.

We understand that state-controlled companies often also have a parallel requirement under the *Corporations Act 2001* (Cth) to prepare financial statements and an audit report.

While we understand that this may involve these entities paying two sets of fees and create some confusion for the boards of state-controlled entities as to why two audit reports are prepared, we note that the two legislative regimes align with each other. Moreover, while there may be an efficiency issue in relation to the dual compliance requirements, we are of the view that this is not a policy issue and that there should be no question that the Auditor-General should not be the auditor of state-controlled entities.

Question 3: Should the Auditor-General's role be expanded to include providing an audit opinion on the adequacy of financial controls, and/or on performance statements?

Governance Institute considers this to be a very important issue. In the public sector, performance information should hold equal weight with financial information. Citizens do not have the liberty of withdrawing their investment in government, so having only the financial information audited does not provide citizens with all relevant information as to whether their investment has resulted in the outcomes that were sought.

It is common in some states (for example, Queensland) for the Auditor-General to issue a report to parliament on the adequacy of internal controls in government departments at a point in time in a financial year. This is usually a prelude to the Auditor-General issuing a report to parliament on the overall results of the audits for the year. There is, however, no 'audit opinion' provided, rather a conclusion on the veracity of the controls across public sector departments as a whole — a situation which provides helpful information to stakeholders.

Governance Institute considers, however, that there is merit in the requirement for the Auditor-General to issue an opinion on the adequacy of financial controls (and also performance statements), a position which would enhance accountability and community trust in the public sector. We also note the recent amendments to the Australian Auditing Standards, for example, *Auditing Standard ASA 701 Communicating Key Audit Matters in the Independent Auditor's Report*, which are operative for financial reporting periods ending on or after 15 December 2016 and provide the opportunity for an auditor to include key matters of significance in the independent auditor's report. This requirement could complement the individual audit opinion provided to a department on the adequacy of financial controls and therefore improve transparency in the public sector.

Question 4: a) How should environmental issues be considered during the auditing process? b) Are there any other issues that should be considered during the audit process?

Governance Institute considers that the existing mandate is generally sufficient at this time. At most, a limited mandate relating to validating environmental reporting systems (compliance requirements) and the integrity of environmental performance indicators (reliability of information systems and data integrity) could be considered.

Question 5: a) What powers, if any, should the Auditor-General have to access premises in the course of an audit? b) What safeguards should be put in place to protect owners and occupiers, if such powers are provided?

Governance Institute is of the view that the Auditor-General (or their authorised auditor) should, for the purposes of conducting an audit under the Act, be given authority to enter, at any reasonable time, a place occupied by a public sector entity or another entity subject to audit; or a place occupied by a financial institution with which a public sector entity, or another entity

subject to audit, maintains an account; or another place if the occupier of the place consents to the entry.

The ability to access premises for the purposes of obtaining and protecting information and evidence is an important component of providing assurance to parliament and building community trust. As an officer of the parliament, the Auditor-General should have the same power as the parliament. The control on the exercise of this power is, similarly, vested in the parliament, through whatever channels it determines (such as the PAEC).

In relation to part (b), Governance Institute considers that the Act should contain provisions relating to confidentiality, including a provision that a person must not make a record of protected information; or directly or indirectly divulge or communicate protected information unless the record is made in the performance of duties as an auditor, or to a parliamentary committee, police, relevant corruption watchdogs, or a court. Penalty points should be applied for a breach of this provision or imprisonment.

Question 6: Are current limitations on what the Auditor-General can and cannot report to Parliament appropriate?

Governance Institute considers that cost-effective checks and balances are important as part of a functioning governance framework. While some of these limitations may be problematic (especially the limitations on questioning government policy, as the line is often not easy to define), Governance Institute supports the limitations as they complement the extraordinary powers and role of the Auditor-General.

Question 7: How should oversight and regulation of the Auditor-General and VAGO be managed?

Governance Institute believes that the Auditor-General's current accountability to parliament and oversight by a parliamentary committee is adequate. In addition, Governance Institute considers that other aspects of oversight and regulation including Ombudsman, IBAC and Victorian Inspectorate are also appropriate and in keeping with the view that VAGO is a public sector entity.

Governance Institute also considers that it is appropriate under section 7A of the *Audit Act* for a Parliamentary Committee to be provided with a copy of the Auditor-General's annual plan for comment. Our view is that VAGO's chief client is parliament and as such it needs to be aware of the Auditor-General's auditing activities across the public sector entities it has created.

Question 8: What role should the Auditor-General play in providing educative or best practice information to the public sector?

Governance Institute considers it to be appropriate for the Auditor-General to develop and extol the virtues of better practice as it is in the public interest to do so as a function of strengthening governance. The Auditor-General is in the unique position of having an overarching view of the public sector and therefore is in a good position to identify and develop better practice governance recommendations and techniques to enhance the robustness of the public sector.

Governance Institute is also mindful that the development of better practice guidelines and education might be seen to impinge on the independence of the Auditor-General. From Governance Institute's perspective, education is not the core business of the Auditor-General and care needs to be taken not to expend too many resources on this activity without the imprimatur of parliament or, where appropriate, central agencies. For this reason, Governance Institute considers that this area should not be enshrined in legislation but rather be discretionary. The strength of better practice implementation lies in the recommendations made to public sector entities and reports tabled in parliament highlighting matters of significance or public interest.


Question 9: a) How would a 'proactive' Auditor-General role improve or hinder the audit process? b) How could potential risks to the Auditor-General's core (post-hoc) audit mandate be managed?

Governance Institute considers that the Auditor-General can be proactive in relation to identifying early problems through auditing at an early stage, for example, by conducting audits early in a significant project under development. Based on our knowledge, Governance Institute considers that effective governance includes early audits to identify potential weaknesses which can be addressed by a public sector entity well before a project nears completion and year end. It would appear that this strategy could be done within the existing mandate to audit.

Governance Institute believes that real-time audits of public-private partnerships or any project in dispute assist the public sector to improve its capacity for risk management.

The current mechanism of parliamentary committee approval of the annual audit plan provides the initial step in this process. Timely reporting to the VAGO's primary client and the public sector entity(ies) involved will form part of the mitigation process.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Steven Burrell', with a long horizontal flourish extending to the right.

Steven Burrell
Chief Executive