

26 November 2013

T +61 2 9223 5744 F +61 2 9232 7174

E info@governanceinstitute.com.au

Level 10, 5 Hunter Street, Sydney NSW 2000

GPO Box 1594, Sydney NSW 2001

W governanceinstitute.com.au

National Commission of Audit
Department of Finance and Deregulation
John Gorton Building
King Edward Terrace
Parkes ACT 2600

By email: submissions@ncoa.gov.au

Dear Commission

National Commission of Audit

Governance Institute of Australia is the only independent professional association with a sole focus on the practice of governance. We provide the best education and support for practising chartered secretaries, governance advisers and risk managers to drive responsible performance in their organisations.

Our Members are all involved in governance, risk management, corporate administration, legal practice, company secretariat and compliance within their organisations, with their primary responsibility being the development and implementation of governance frameworks in a variety of organisations across all sectors. Our Members in the public sector are often responsible for ensuring the overall efficiency and effectiveness with which government services and policy advice are delivered.

Governance Institute of Australia welcomes, therefore, the opportunity to comment on the National Commission of Audit and draws upon the experience of our Members in providing our response.

General comments

Governance Institute of Australia notes that it is not unusual for new governments to establish fact-finding and reform-oriented bodies in the very early part of their term, such as the present Commission of Audit. A review of this nature seeks to investigate the government and how its components interact (within the Westminster and legislative framework) and to identify opportunities for improvement. The latter aspect is very important. A model of public sector governance and accountability needs to be concerned not just with single department or agency governance, or even state or Commonwealth or local government governance.

We are of the view that the Commission of Audit provides an opportunity to consider how the Commonwealth Government can achieve an overarching goal of community wellbeing, particularly over the longer-term. For example a public value proposition might be at a:

- strategic level — a mix of public services that optimises the economic, physical, social, cultural and emotional quality of life/wellbeing of communities while maintaining taxation levels sufficient for industry competitiveness
- operating level — the benefit-cost ratio of providing services within prudent innovation and risk-taking tolerances, with tangible and intangible benefits, ideally substantially exceeding costs.

Governance Institute of Australia suggests that that this could be achieved through the implementation of a whole-of-government approach to governance which encourages governments to turn from a focus on the performance of individual agencies and departments and concentrate on governance across the public sector, including the interaction between agencies, departments and ministries as a whole.

Adopting a whole-of-government approach

While the current Westminster system provides a variety of lines of accountability and transparency, there are many instances where responsibility for achieving a state or federal outcome/policy spans more than one federal or state department or agency. This structure creates a risk that departments may become agency-centric, with an approach solely focused on funding requests leading to possible timing differences and inconsistent approaches to the achievement of government goals across the department.

A whole-of-government approach to governance in the public sector would recognise the already well-established governance practices and processes currently in place, but also take the opportunity to examine how public sector governance can be improved.

Lessons to be learnt from the private sector

We are of the view that there are lessons to be learnt from the private sector.

In relation to governance frameworks, we believe that consideration could be given to a principles-based governance framework applicable across the public sector, based on the ‘if not, why not’ approach as set out in the ASX Corporate Governance Council’s *Corporate Governance Principles and Recommendations* (the Principles and Recommendations). In Australia, under ASX Listing Rule 4.10.3, all publicly listed entities are required to disclose in their annual reports the extent to which they have followed the recommendations for governance frameworks set out in the Principles and Recommendations. The recommendations are not prescriptive — if a company considers that a recommendation is inappropriate to its particular circumstances, it has the flexibility not to adopt it. This flexibility is tempered by the requirement to explain why — the ‘if not, why not’ approach.

The Principles and Recommendations have played a vital role in improving corporate governance in Australian listed companies since the release of the first edition in 2003. Their history is one of practical statements on governance which have brought meaningful change to governance practice. Companies and their boards are being held much more accountable for their stewardship of other people’s money. The greater transparency about how companies are governed and managed is a result of the accountability expectations that are central to the guidelines. The success of the Council’s guidelines lies not only in their acceptance that there is no ‘one-size-fits-all’ governance framework, but also their relevance and the fact that they meet the needs of investors in seeking greater transparency, and the needs of companies trying to tell their story.

Importantly, the Principles and Recommendations:

- provide a national framework on governance against which listed entities disclose
- are not prescriptive
- provide a clear example of how corporate governance can be effectively and flexibly addressed within the ‘if not, why not’ framework.

Without national governance principles in the public sector, it may be that it remains challenging for governments and the public to be confident that the performance of the public sector is productive, efficient, and effective and continuing to add value to the long-term wellbeing of communities across all services and projects.

Whole-of-government ‘governing-type body’

Under a Westminster-style governance model, there can be a central agency structure that includes policy and direction-setting (for example, the Department of Premier and Cabinet), finance (for example, the Department of Treasury and Finance) and capability (for example, the Public Service Commission). However, these agencies can also be single policy, program, issue or function-focused, rather than adopting a whole-of-sector approach.

A second matter to which we believe consideration should be given therefore is a whole-of-government ‘governing-type body’ focusing on the oversight of implementation of national principles on governance.

The concept of a ‘governing-style body’ provides a stewardship role to ensure the alignment of interests and oversight of performance across the whole of government. Such a body would be convened for a set period (that is, it would be subject to a sunset clause). It could provide an accountability mechanism for assessing:

- whether line and central agencies are sufficiently collaborative and networked with integrated governance arrangements
- whether whole-of-government strategic planning is being implemented
- whether whole-of-government risk management is being implemented
- whether agency/portfolio decision-making processes are encompassing whole-of-government thought on a collective basis by heads of departments.

Benefits of this approach

Identifying wasteful spending and unnecessary duplication is an important objective that we support. However, consideration needs to be given not only to whether there is an excess of spending in particular agencies or departments, but also to whether spending may be required to improve the long-term wellbeing of the community. This latter approach requires a whole-of-government perspective.

In the private sector, a shareholder value proposition may relate to performance being sufficient to create shareholder value including that returns should be greater than those from bank deposits and/or borrowing costs. The aim of a board can be to ensure that shareholder value is being created and maintained while the company is acting ethically, legally and responsibly, including in the prudent management of risks and integrity of reporting. In the not-for-profit sector, a value proposition may relate to the effective and efficient delivery of services to members in fulfilment of the mission of the organisation.

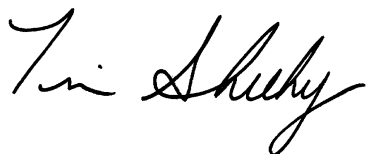
The ultimate public value-added outcome from the delivery of public services is community wellbeing. A cross-agency approach is often needed to the challenges facing any government, because it is unlikely that one agency can create economic, social, physical, cultural and emotional community wellbeing by itself. A whole-of-government approach can assist governments to demonstrate the value proposition to community wellbeing of policies that may require significant spending.

Conclusion

The timeframe allocated to the consultation on the Commission of Audit is such that Governance Institute of Australia can only provide a broad outline of the whole-of-government approach to governance in this submission.

We would be keen to develop our ideas on a whole-of-government approach to governance further in consultation with the Commission.

Yours sincerely

A handwritten signature in black ink that reads "Tim Sheehy". The signature is written in a cursive, flowing style.

Tim Sheehy
Chief Executive