

PARLIAMENTARY OVERSIGHT

AN AUDITOR-GENERAL'S PERSPECTIVE

Presented by Mr Tony Whitfield, New South Wales Deputy Auditor-General to the Australasian Study of Parliament Group Conference, Parliament House, Sydney, 7 October 2005.



THE AUDIT OFFICE
OF NEW SOUTH WALES

INTRODUCTION

This paper has three simple messages.

The first is that any discussion about Auditors-General essentially boils down to a two themes - independence and accountability.

The second is that any parliamentary oversight should preserve the independence of the Auditor-General.

And the third is that a collaborative relationship between parliamentary committees and an Auditor-General, particularly the Public Accounts Committee in NSW, is essential.

This paper will briefly:

- look at what is necessary to preserve the independence of the Auditor-General
- what parliamentary oversight of the Auditor-General is appropriate
- examine some recent examples of collaboration between the NSW Auditor-General and NSW parliamentarians and parliamentary committees.

The Independence of the Auditor-General

Under the Westminster system of Government the Auditor-General plays a crucial role in assisting Parliament to hold the Government accountable for its use of taxpayers' money. Auditors-General do this by providing an independent view of the performance and financial management of public sector agencies and bodies.

The Office of the Auditor-General provides a critical link to the accountability chain between the public sector, and the Parliament and the community. It alone subjects the practical conduct and operations of the public sector as a whole to regular, independent investigation and review. This function must be fully guaranteed and its discharge facilitated. The Auditor-General is the Parliament's principal informant on the performance of the administration system. The Parliament therefore has a special responsibility to ensure both that the independent and the effective resourcing of the Auditor-General is secured, and that its own investigative procedures (particularly through committees) are such that it fully utilises the information about government supplied to it in the Auditor-General's reports. (Reports of the Royal Commission into Commercial Activities of Government and Other Matters 1992: Paragraph 3.10.1).

In October 1996 the Commonwealth Joint Committee of Public Accounts (JCPA) outlined its view on what was necessary to preserve the independence of an Auditor-General:

- a wide legislative mandate to audit the complete spectrum of Commonwealth functions
- freedom to determine the audit programme, and to decide the nature and scope of audits to be conducted
- unrestricted access to information in performance of the audit function together with the right to report any findings to Parliament
- personal independence in relation to appointment and tenure
- adequate resourcing to fulfil audit functions effectively.

Parliamentary Oversight of the Auditor-General

The NSW Auditor-General's primary parliamentary relationship is with the Public Accounts Committee (PAC).

The PAC does not oversee the Auditor-General as other parliamentary committees oversee certain bodies. For example, the Committee on the Independent Commission Against Corruption monitors and reviews the ICAC's functions, annual reports, and other reports it makes to Parliament.

The Auditor-General is not required to appear before the PAC to account for his Office's activities. This arrangement has served the people of New South Wales well and should be preserved. The most important issue is that a cooperative and supportive relationship exists between the PAC and the Auditor-General. Something discussed later in the paper.

Triennial Review of the Audit Office

In New South Wales the PAC organises a triennial review of the Auditor-General's Office. The Committee appoints the reviewer and presents the report, first to the Auditor-General for comment, and then to the Legislative Assembly. The Triennial review examines the auditing practices and standards of the Auditor-General.

These reviews are necessary and are fundamental for Parliament to gain assurance that the Auditor-General is carrying out his role in an appropriate way.

The *Public Finance and Audit Act 1983* restricts these reviews to practices and standards of the Office. Parliament would gain more from a review that also examined the management of the Audit Office. This would answer important questions, such as how well is the Audit Office governed?

Recent reviews have provided some good suggestions for improvement but have also highlighted some different views on the role of an Auditor-General and the Audit Office. These are being resolved through close collaboration with the PAC - something discussed in more detail later in this paper.

Appointment and Tenure of the Auditor-General, and Funding

In order to achieve both an independent Auditor-General and Audit Office, Parliament, not the government, should determine an Auditor-General's employment conditions (for example, appointment, removal and remuneration) and funding.

In New South Wales the Auditor-General is appointed by the Governor on a recommendation from the Government of the day. The Public Accounts Committee can veto an appointment, a power it has not exercised to date. In effect, the Auditor-General is an independent statutory officer, reporting directly to Parliament.

In other jurisdictions such as New Zealand, the Governor-General on the recommendation of the House of Representatives appoints the Auditor-General. This provides a more active role for the Parliament and enhances the independence of the Auditor-General.

The NSW Auditor-General is appointed for a fixed term of 7 years - non renewable. Some other jurisdictions have 10 years such as the Commonwealth. Others such as South Australia have tenure until the age of 65. In New South Wales as with many other jurisdictions, an Auditor-General can only be terminated by resignation or by Parliament, further enhancing independence.

In NSW the large majority of the Audit Office's funding comes from audit fees charged to NSW Government agencies for financial report audits. This separation from government grant or appropriation allows for greater flexibility and independence. For performance audits, the NSW Auditor-General relies on an appropriation determined by Treasury. Historically this has placed his Office under considerable fiscal pressure. And has limited his capacity to review whether NSW Government agencies are providing value for money in carrying out their objectives. This is not an ideal situation.

In cases where the Audit Office does not raise revenue (through say audit fees), the resourcing of an Office should come from a parliamentary allocation determined through consultation between the Executive and the Parliament (or its representative, say the PAC). The Executive alone should not determine it. This supports the principle that an auditee should not be funding the auditor, and is especially important in the public sector because an Auditor-General cannot resign from individual audits.

Audit Offices should be either a statutory authority or established by separate legislation, and set up so the Auditor-General is responsible for the resourcing decisions within their Office. Ideally Auditors-General should also be able to set the employment terms and conditions of their staff. Something New South Wales largely achieved in 2005, with Audit Office staff now employed within a separate award under the *Public Finance and Audit Act 1983*.

Audit Programmes and their Nature and Scope

The Parliament and PAC should preserve an Auditor-General's power to determine the audit program, the nature and scope of audits, who will carry out the audits and priorities.

In some states such as Victoria and Western Australia, the Auditor-General submits annual audit plans to the PAC or equivalent and reports on progress.

The NSW Auditor-General discusses his programs with the PAC, particularly the performance audit program and works with them to ensure there is no duplication of effort. The most recent PAC chair and committee were appreciative of the chance to discuss the program but did not want to influence what the Auditor-General planned to audit. This is something the Auditor-General is very supportive of and believes adds to the independence of his Office, both actual and perceived.

Access to Information and How to Report Audit Findings

All Auditor-General's Reports should be tabled in Parliament. This reflects the principle that Parliament is the main client of an Auditor-General. Legislation should set out minimum reporting requirements and time limits for reporting.

The Parliament and PAC should also preserve an Auditor-General's power to:

- have access to all information necessary to carry out audits. This access should be subject to strict confidentiality requirements to ensure that all information is used only for the purposes set out in the Auditor-General's legislation
- carry out, or delegate, the external audit on all public sector agencies.

Auditors-General Annual Reports

Auditors-General should report annually to Parliament on what they set out to do, what they achieved and what they did not achieve. This report should also include audited financial statements. An external auditor should also audit the performance information - something the NSW Auditor-General has been encouraging the NSW Government to adopt for all NSW Government agencies.

All Auditors-General have their financial statements audited as do all Government agencies. However, the Western Australian Audit Office is the only Australian audit office to have their performance information audited.

Ideally the Parliament or the PAC should appoint external auditors for Audit Offices. In New South Wales, the Governor on the advice of the Treasurer appoints the external auditor.

The Cooperative Relationship between the NSW Auditor-General and the NSW Parliament and Public Accounts Committee

The NSW Auditor-General and his Office often make submissions and appear before PAC inquiries. They also regularly meet with the PAC during sitting days to brief Parliamentarians on the reports they are presenting to Parliament.

The Complementary Roles of the Auditor-General and the Public Accounts Committee

The roles of the PAC and the NSW Auditor-General are very similar and designed to maximise the assistance they provide the NSW Parliament to improve the accountability and performance of the State. This is entirely appropriate as government businesses are numerous and impact the daily lives of the public.

Essential to achieving this is a positive and collaborative relationship.

Examples of the Cooperative Relationship between the NSW Auditor-General and the NSW Parliament and Public Accounts Committee

The partnership between the NSW Auditor-General and NSW Parliament extends well beyond Auditor-General's Reports to Parliament. The NSW Auditor-General and his Office, the Audit Office of New South Wales, work directly and closely with parliamentary committees, who often:

- draw on the Auditor-General's audits and advice
- follow-up and reinforce his work
- refer specific topics to the Auditor-General.

In 2004-05 the Auditor-General drew on his work on risk management, audit committees and sustainability reporting when providing submissions to the PAC.

The PAC's September 2005 report on risk management acknowledged that of the agencies it surveyed, 'over 70 per cent of respondents recognised that the Auditor-General's findings from the performance audit had influenced their risk management policies, procedures and practices.'

The PAC's report on audit committees drew extensively from a 2001 Auditor-General's report, and made similar findings in its April 2005 report. It was perturbed to note that not all of the agencies it reviewed had implemented the improvements we had identified. It recommended that most agencies should have an audit committee and that NSW Treasury should draft directions to help agencies improve audit committee operations.

Their September 2004 report on Academics' Paid Outside Work, directly related to issues we have raised in our 2000 performance audit and made similar findings. As a result, the PAC asked us to conduct a review of universities' paid outside work and intellectual property policies. We will be doing this in early 2006.

We also provided evidence about our 2003 report on the disposal of Sydney Harbour Foreshore Land to the General Purpose Standing Committee No. 4 Inquiry into Management of the Sydney Harbour Foreshore Authority. The Joint Committee on the Office of the Valuer General sought our advice on ways to improve the Valuer General's annual reporting of its performance.

These examples illustrate how the NSW Auditor-General, PAC and other parliamentary committees are working cooperatively to provide Parliament with an independent view of how government agencies are operating and reporting. Something that is fundamental to our Westminster system of government.

This paper also suggests a number of ways of improving the independence of the NSW Auditor-General and the Audit Office of New South Wales. For example, funding of performance audits.