

LEGISLATIVE
ASSEMBLY

Public Bodies Review Committee

REPORT ON CORPORATE GOVERNANCE

Follow-Up Review of Performance Audit Report on Corporate
Governance

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Membership & Staff

Chairman	Matthew Morris MP, Member for Charlestown
Members	Alan Ashton MP, Member for East Hills
	Barry Collier MP, Member for Miranda
	Robert Oakeshott MP, Member for Port Macquarie
	Wayne Merton MP, Member for Baulkham Hills
	Andrew Constance MP, Member for Bega
Staff	Catherine Watson, Committee Manager
	Roque Fortu, Seconded from NSW Treasury
	John Chan Sew, Consultant
	Samantha Ngui, Senior Committee Officer
	Belinda Groves, Committee Officer
	Glendora Magno, Assistant Committee Officer
Contact Details	Public Bodies Review Committee Legislative Assembly Parliament House Macquarie Street Sydney NSW 2000
Telephone	02 9230 2036
Facsimile	02 9230 3309
E-mail	catherine.watson@parliament.nsw.gov.au
URL	www.parliament.nsw.gov.au

Terms of Reference

FOLLOW-UP REVIEW OF PERFORMANCE AUDIT REPORT ON CORPORATE GOVERNANCE

To conduct a follow-up review of the implementation of the recommendations contained in the *Auditor-General's Performance Audit Report (1997): Volume One – Corporate Governance in principle* and *Volume Two – Corporate Governance in Practice* and also the application of the Audit Office's *Guide Towards Better Practice in Public Sector Corporate Governance* by New South Wales Agencies.

To examine, as part of the follow-up review, the following specific matters:

- Whether the existing corporate governance frameworks and arrangements are appropriate and effective in view of the significant reforms which have transformed the Public Sector in recent years particularly in the areas of the delivery of government service
- Whether the existing boards and committees add value to government and whether any further improvement and rationalisation are required
- Whether the existing arrangements for monitoring and reporting on corporate governance issues and for assessing the performance of boards and committees are effective
- What issues and problems are faced by agencies in implementing effective corporate governance arrangements
- To review the appropriateness of risk management and incentives under the Treasury Managed Fund
- Other related matters.

Executive Summary of the 1997 NSW Audit Office Report

“Corporate governance is a way of providing stewardship to an organisation. It is the system by which entities are directed and controlled by a board. In recent years it has become an issue in the NSW public sector because of:

- the increase in the numbers of boards
- the costs that boards impose, and
- the increase in the number of entities operating as businesses.

The Audit Office conducted a survey of boards in the NSW public sector. Given the great interest in the survey, its detailed results have been separately published here, as a Supplement to The Audit Office Reports entitled volume one: Corporate Governance in Principle and volume two: Corporate Governance in Practice. Care should be taken in interpreting the survey data by itself, to avoid general conclusions being drawn which are simplistic. Further evidence of governance has been obtained by The Audit Office from a substantial number of field visits, which are used as case studies in Volume Two.

The survey addressed five specific criteria:

- That supporting/enabling legislation, governance structures and boards creation processes should facilitate better governance practice.

There should be open communication between and clear accountability procedures for key stakeholders to assist the clarification of roles, responsibilities and relationships. The survey found that board communication with the Minister was limited and, where it did occur, it was more often with the Chair and/or CEO. In terms of clear accountability for all stakeholders, Ministerial Directions were most often in writing and half of the boards did not detail these directions in the Annual Report.

- Boards and management should understand their roles, responsibilities and duties and that these should be clearly articulated in legislation.

Most of the boards possessed information on duties and responsibilities for new directors. Half of the boards provided new directors with copies of legislation and briefed them on their legal duties and responsibilities, while

the remainder used one of the means. There was variation in the way in which boards ensured the development of their members' skills. 59% of boards used briefings conducted by experts while 18% arranged formal courses on industry or technical issues. Only 11% of boards arranged formal courses on the roles and responsibilities of board members.

- Board directors should possess appropriate qualifications and expertise to fulfil their responsibilities.

The survey revealed that 52% of boards consisted of directors with a private sector background.

- Boards need to ensure that adequate systems are in place to be able to oversight on the activity of the agency.

In terms of adopting standards, the survey found that 36% of boards had a code of ethics; half had a register of conflicts of interest; and 37% had formal procedures for disclosures of transactions with firms in which directors have had a pecuniary interest.

Many of the surveyed boards had not implemented a system of internal control.

Most boards had committees. Less than half of all the groups surveyed had an audit committee, except for the group consisting of GTEs and SOCs where the majority had an audit committee.

In terms of transparency in decision-making, the survey found that board meeting minutes indicated the basis for decision-making and recording dissent by most boards.

- Boards must be accountable to those whose interests they represent.

In terms of public accountability of board performance, the survey found that 31% of boards did not assess their own performance.

The issue of how to improve the context within which corporate governance operates in the NSW public sector is discussed in Volume One: Corporate Governance in Principle. Specifically, it examines legislation, policies, administrative arrangements and conventions. A second report, Volume Two: Corporate Governance in Practice, examines corporate governance practices in detail and assesses them against "better practice".

Chairman's Foreword

The innovative work of the NSW Audit Office in the area of corporate governance coupled with the growing importance of the topic prompted the Committee to examine closely the current governance framework of and issues for the NSW public sector.

The Committee is pleased to present the findings of original research on the governance arrangements of boards, committees and agencies in the NSW public sector. The survey required considerable effort on the part of the chief executive officer and the board and committee members and other staff involved in the completion of the survey.

The Committee is grateful to respondents for their frank comments on their performance in this important area and for their suggestions for improvements to the governance arrangements of the public sector as a whole.

NSW Treasury assisted the inquiry by enabling a staff member with particular expertise in corporate governance to join the Committee secretariat for a time. The Committee would like to acknowledge and thank Roque Fortu for his contribution to the inquiry.

The considerable experience of John Chan Sew was of vital assistance to the Committee in the design of the survey tool. The Committee would like to thank John for his guidance and advice.

The Committee considers corporate governance issues to be of paramount importance to the accountability, transparency and good governance of the public sector in NSW.

There is scope for consolidating earlier work done on corporate governance and for initiating change to better streamline processes to facilitate greater accountability, transparency and efficiency in the NSW public sector. The Committee hopes the material contained herein goes some way towards the achievement of these goals.



Mr Matthew Morris MP
Chairman

List of Recommendations

Number	Recommendation	Page Number
1	That information on boards and committees including: the current membership, date of establishment, classification (governing or advisory), purpose, frequency of meetings, and contact details be made readily available and easily accessible on both the websites of the NSW Premier's Department and of all NSW public sector agencies who operate boards and committees	21
2	That central agencies in consultation with all agencies, develop: <ul style="list-style-type: none"> ➤ A comprehensive corporate governance framework in line with best practice ➤ An implementation strategy to assist agencies, boards and committees with putting into effect the corporate governance strategy complete with a checklist ➤ A monitoring regime for reviewing compliance with the framework 	68
3	That the <i>Public Finance and Audit Act 1983</i> be amended to incorporate those components of the revised corporate framework which are compulsory for agencies to comply with	68
4	That the new corporate governance framework address the definition and documentation of the roles and relationships between boards, committees and Ministers	70
5	That all members of NSW public sector governing boards and committees who receive payment for their service should be required to declare their pecuniary interests and a register of these pecuniary interests should be kept by the board or committee chairperson.	71
6	That the new corporate governance framework require that boards and committees undertake regular performance reviews and that consideration be given to a program of random performance reviews conducted by external bodies	71

7	The Committee encourages the development of strategies aimed at improving corporate governance by heads of agencies and governing boards as a means of demonstrating commitment to good governance	71
8	That agencies be required to include in their annual reports: <ul style="list-style-type: none"> ➤ Achievement of key performance indicators ➤ A section on corporate governance including: policies and processes, improvements and planned initiatives for the coming year ➤ Compliance with public sector values, ethical standards and codes of conduct ➤ Details of the performance review of the CEO and governing boards (where applicable) ➤ Overview of the internal audit program including details of the results and remedial action undertaken ➤ Reporting of the nature and success of communication and consultation with stakeholders ➤ Justification for the existence of all boards and committees 	71
9	That all public sector agencies make available on their website their strategic and annual business plans	72
10	That the NSW Premier's Department include in their annual report the diversity of membership on public sector boards and committees including details of the number and percentage of women, people from culturally and linguistically diverse backgrounds, indigenous people, younger people and people with disabilities	74
11	That active measures be undertaken to ensure that where appropriate boards and committees are reflective of the community they operate in	74
12	That NSW Treasury consider requesting that all Ministers undertake a comprehensive review of all boards and committees in their portfolio to determine their ongoing relevance and to identify potential cost savings	74

Chapter One - Background

- 1.1 The Committee undertook the inquiry as a response to the growing focus on corporate governance issues on a global, national and a state wide level.
- 1.2 Assessing the progress of corporate governance since the release of the 1997 Audit Office report was seen as an effective means of inquiring into corporate governance in the NSW public sector.
- 1.3 The inquiry recognises the importance of key corporate governance principles like accountability and transparency to the wider community.
- 1.4 In a public sector context corporate governance is in part a response to citizen demands for an efficient and accountable public sector.
- 1.5 Wayne Cameron (Auditor-General of Victoria) cited the following as reasons for the increasing focus on corporate governance:

“Corporate governance has emerged as a mainstream topic and is receiving increasing attention across both the private and public sectors due to a range of factors, including:

- corporate failures;
- increasing pressure to perform, through globalisation;
- public sector scandals;
- emergence of new risks;
- increasing complexity of stakeholder relationships and expectations; and
- regulators and standard-setters are increasingly requiring organisations to adopt best corporate governance standards...

A number of issues have contributed to the growing importance of corporate governance –especially within the public sector:

- increasing community expectations re: performance and transparency/openness of process;
- changes in the way the public sector is conducting its business, e.g. how many of you are involved in outsourcing? ... what were some of the first things that you found you had to do? ... there would have been a need to clearly define your service requirements ... but did you also give enough attention to your changed business relationships? ... and how did you ensure that the core public service ethical, informational, consultative, collaborative arrangements remain effective?”¹

¹ Corporate Governance in the Public Sector – Presentation to Clayton Utz CEO Breakfast Seminar, 8 February 2002, Victorian Audit Office Website
http://www.audit.vic.gov.au/speeches/agspeech_04.html date accessed 14 March 2006

1.6 The Auditor-General of NSW, Mr Bob Sendt offered the following comments on the increasing popularity of corporate governance:

“The Australian business sector has lingering memories of names such as Alan Bond and Christopher Skase, with the regulatory institutions still today trying to unravel events and recover losses. But there have been terrible examples in the Australian public sector too, such as the National Safety Council and the State Bank of South Australia.

Those of us with a role in the ongoing study and improvement of governance and accountability have had plenty of material to examine and work with! Governance keeps on finding its way onto page 1 of our daily newspapers. On an almost daily basis we read about where governance and accountability systems have failed to prevent, or even to detect, badly judged risks, bad or dubious business practices, and even fraud at the highest corporate levels on board.

... On the home front, in recent times the NSW public sector has witnessed a major governance fiasco with the collapse of the NSW Grains Board, owing some hundreds of millions of dollars. Even more recently, the private sector sent a shudder through the very foundations of the Australian economy with the HIH Insurance and Ansett Airline collapses.

... In the private sector, a key function of governance is to protect the interests of the owners. The chief interest of owners is return on investment: not exclusively, but primarily. Good performance against that objective is said to benefit not just the owners, but also to provide flow-on benefits to society and the economy (although much argument about this will always exist). The importance of governance is central to achieving all of these benefits.

... much of what governments do in delivering public services involves running major businesses. The operation of public utilities for example. Water, power, roads, transport. In NSW our various forms of government businesses have total assets around \$65 billion, net assets or equity of nearly \$50 billion (the market capitalisation of BHP Billiton is around \$40 billion) and make profits before distributions of \$1-2 billion per year.

As the ultimate owners of these businesses, NSW taxpayers have the right to expect them to perform to best practice. Proper governance arrangements are essential in ensuring this is the case.

But governments do much more than operate utilities. If governance is important in the private sector because businesses impact on the community and the economy, many public sector activities impact on the community in an even more direct and immediate way. There is health, education, social welfare and all of the many and varied activities of government which communities derive benefit from. The World Bank points to the fundamental importance of public sector governance in this way:

... governance matters, ... there is a strong causal relationship from good governance to better development outcomes such as higher per capita incomes, lower infant mortality and higher literacy.²

- 1.7 The movement behind corporate governance was initially focussed on the private sector. Special considerations are necessary when corporate governance principles are applied to the public sector and there is only a small body of performance reviews of public sector performance in the area. It was, therefore, considered to be a priority for the Committee to research the current corporate governance practices of NSW public sector agencies, and boards and committees.
- 1.8 A survey was designed and conducted addressing the topics below with responses coming from a wide range of boards and committees in the NSW public sector:
- The corporate governance framework in NSW
 - The corporate governance framework of the agency and issues in the implementation of the framework
 - Arrangements with the Chief Executive Officer
 - Planning and control mechanisms
 - Accountability
 - Reporting and performance review
 - Stakeholders
 - Organisational culture
- 1.9 An in-depth discussion of the survey results is contained in Chapter Five.

² Governance and Accountability in the Public Sector – Key note address to the PNG Institute of Accountants Conference 21 February 2002 by Mr Bob Sendt NSW Audit Office Website http://www.audit.nsw.gov.au/publications/speeches/ag_speech/2002/_edn8 date accessed 20 March 2006

Chapter Two - Corporate Governance in the New South Wales Public Sector

- 2.1 The corporate governance framework in New South Wales consists of relevant legislation, policy from central and other agencies, circulars and memorandums from central agencies, and guidelines on various aspects of corporate governance.

Legislation

- 2.2 Relevant legislation includes:

The Public Finance and Audit Act 1983

Provides for the administration and audit of public finances. Empowers the Auditor-General with powers to scrutinise the financial records and administration of public finances of stipulated public bodies and to report on the findings of oversight activities. The Public Accounts Committee of the Legislative Assembly is also given its role and powers in the Act.³

The State Owned Corporations Act 1989

Establishes and governs the operation of government enterprises as State Owned Corporations.

The Freedom of Information Act 1989

The provision of access to information held by government is governed by this legislation. The right of individuals to ensure that records involving their personal details held by government are accurate and complete is also ensured through this legislation.

³ Briefing Paper – Accountability Legislation, Legislative Assembly, NSW Parliament

The Protected Disclosures Act 1994

As per section 3.(1), the purpose of the Act is to encourage and facilitate the disclosure, in the public interest, of corrupt conduct, maladministration and serious and substantial waste in the public sector. The Act also provides for the appropriate handling of a disclosure and for protection of “whistleblowers”.

The Annual Reports (Departments) Act 1985 and The Annual Reports (Statutory Bodies) Act 1984

Both Acts provide timeframes, minimum criteria to be covered in an annual report and a list of the public bodies the legislation applies to. Prescribed annual reporting requirements include details on: Industrial relations, personnel policies, staff movement, exceptional movements in wages and salaries, training and development, occupational health and safety, code of conduct, executive remuneration, consumers, disability action plan, action plan for women, ethnic affairs priority statement, equal employment opportunity, human resources, information technology, financial services, risk management and internal control, energy and waste management and privacy management.

- 2.3 Other legislation relevant to corporate governance includes the enabling legislation for the Ombudsman, the Independent Commission Against Corruption, and the Police Integrity Commission.

Policy and Guidebooks

- 2.4 Key policy documents and guidelines in the area of corporate governance include:

Premier’s Department’s ‘A Model Code of Conduct for NSW Public Sector Agencies: Policies and Guidelines’ (1997)

The code of conduct provides for the selection, termination, categorisation, remuneration and allowances payable to board and committee members.

Audit Office’s ‘On Board – Guide to Better Practice for Public Sector Governing and Advisory Boards’ (April 1998)

This document outlines better practice in relation to roles of members and the committee, appointment of members, induction and training, meetings, standards, risk management, and reporting and evaluation.

*Audit Office's 'Public Sector Corporate Governance – Ready Reckoner'
(April 1999)*

The Ready Reckoner is based on the 'On Board – Guide to Better Practice for Public Sector Governing and Advisory Boards' publication. The publication is a good summary of recommended corporate governance principles from the NSW Audit Office:

1. The role of the board

A board provides effective leadership, advice, and independence in decision making to an organisation. Legislation should clarify whether a board is governing or advisory. If it doesn't, a board should seek clarification with its Minister/s.

A governing board:

- sets strategic direction
- liaises with stakeholders
- ensures compliance with statutory requirements
- manages risk
- monitors organisational performance.

2. The role of the Chair

The Chair provides leadership and promotes cohesiveness/effectiveness of the board. Some of the key roles performed by an effective Chair include:

- assisting the board to develop good relationships with the Minister(s), with the CEO and with other key stakeholders and interested parties
- assisting individual members, and the board as a whole, to understand their role, responsibilities and accountability
- helping members understand their risks and liabilities as individual members and as a board
- rigorously assessing the performance of members on a regular basis
- ensure the performance of the board is assessed and reported.

3. The role of the CEO

The CEO is responsible for:

- supporting the board in its governance or advisory role
- providing leadership to the organisation
- managing the organisation's day-to-day operations
- creating an ethical working environment.

4. Board committees

All boards should establish an audit committee. Governing boards are likely to benefit from establishing a governance committee. Other committees may be of value if significant issues require confidential input at board level (eg. environmental, legal or technical matters). Such committees may not need to be permanent.

Board committees:

- distribute the workload

- enable detailed consideration to be given to important matters
- offer advice on sensitive matters.

A committee is effective when it has:

- an appropriate number of members
- a majority of non-executive members
- a clear charter
- procedures for reporting to the board.

5. Appointments

Ideally, and where permitted by legislation, the Chair and the CEO both should be appointed by the board.

Appointment of new members needs to take into account:

- the current and future needs of the board
- the current skill mix of the board
- the extent to which the board's membership should reflect the demography and views of the general community.

6. Induction and training

Induction and training programs should cover:

- information about the public sector
- the impact of the agency's legislation on the role of the board
- information about the organisation
- board procedures
- care, skill and diligence obligations
- the kind of environment in which the board operates (e.g. government policies, business context etc.).

7. Board meetings

A board meeting is effective if:

- the agenda is carefully prepared
- papers are circulated well in advance of the meeting
- it is conducted in a way that allows frank and open discussion
- it defines the parameters for the way in which the board conducts business
- it records decisions, discussion and dissent
- it ensure minutes are accurate
- it has rules about access to information
- it allows for seeking independent and external professional advice at the organisation's expense.

8. Standards

A board should have:

- a code of conduct

- a register of related party transactions
- a register of pecuniary interests
- a mechanism to allow for disclosure of actual & perceived conflicts of interest.

9. Risk management and liability

Board members need to understand their risks and liabilities and need to exercise care, skill and diligence. Boards need to have risk management strategies including appropriate internal controls.

10. Reporting and evaluation

Boards should report their corporate governance practices and achievements in an Annual Report. The Australian Stock Exchange Listing Rule 3C(3)(j) provides for its members an indicative list of corporate governance practices on which they might report. These include:

- the non-executive composition of the board
- the nomination and selection processes
- terms and conditions related to the appointment of non-executive members
- access to information
- risk management strategies
- ethics.

A board should evaluate:

- its performance
- the workload of the board and the number of positions it needs (legislative provisions here may need to be reviewed)
- the contribution of individual members against pre-determined criteria.

The relevant Minister should also evaluate the performance of the board and have a “performance agreement” with it.

Premier’s Department’s ‘Boards and Committees Handbook’ (June 2000)

The handbook was developed as a response to the Audit Office recommendation in the performance audit of corporate governance. The handbook incorporates the ‘On Board’ publication. Contents include: induction of members, establishment of boards and committees, legislation, charter, functions, business plan, role of members, role of minister, relationship management, minister’s expectations, governance, minister’s expectations, governance, minister’s directions, performance management, legal advice, selection of members, appointments, termination of appointments, authority of members, finance, remuneration, resources, code of conduct, ‘On Board’, and policy documents.

Premier’s Department’s ‘Conduct Guidelines for Members of NSW Government Boards and Committees’ (November 2001)

This resource provides for the following: principles of conduct for the public sector, personal & professional behaviour, accountability (for public expenditure and for decision making), use of public resources, use of official information, gifts & benefits, disclosure of interests, recognising & managing conflicts of interest,

reporting suspected corrupt conduct, relevant legislation, policy, guidelines & publications, and sources of information/advice.

Premier's Department's 'An Introduction to Board and Committee Membership' (July 2002)

This introductory document provides a guide for members of all the different types of boards and committees including those involved in: state owned corporations, public trading enterprises, regulatory authorities, professional registration boards, area health services, marketing boards, trusts and advisory committees and councils. To remain relevant to all classes of boards and committees the document remains a generalist one. Topics covered include: Criteria for position, locating appropriate candidates, Premier's Department register, remuneration, induction and training, duties and responsibilities, conduct, other references, access to information about NSW government and public administration, legislation, policy and guidelines and other public administration sources.

Premier's Department's 'Guidelines for NSW Board and Committee Members' Appointment and Remuneration' (June 2003)

Superseding the Premier's Memorandums on the topic, the Guidelines provide for the appointment, categorisation, remuneration, taxation and superannuation guarantee obligations and allowances. The Guidelines do not apply to:

- Local boards, local advisory committees, local advisory councils and local trusts
- Advisory committees and advisory councils of state and regional significance where no members receive remuneration for their work on the committee
- Boards of subsidiaries where the parent body's board is covered by these guidelines
- Departmental and Inter-departmental committees
- Boards of State Owned Corporations

2.5 Boards and committees generally conform to one of the following categories:

- **Governing Board**- The board should be empowered to govern the management of the enterprise and circumstances in which Ministerial control and direction will be exercised should be specific.
- **Advisory Board**- The board provides advice to the Minister on all matters relevant to the management of an authority but the Minister retains unfettered right to control and direct the board and the CEO.
- **Advisory Council, Committee, etc.**- These bodies generally have little or no policy determination or operational executive functions and are established primarily to provide advice to a portfolio Minister on policy or operational issues.

- **Quasi Judicial Boards/Tribunals;** perform regulatory type functions. In many instances the daily rate is based on the annual equivalent that has been determined by the Statutory and Other Offices Remuneration Tribunal for full time office holders.

2.6 Rates of remuneration for board and committee members are as follows:

Remuneration for Governing Boards, Advisory Boards and Quasi Judicial Boards will be determined on a case by case basis by the Premier... Maximum daily sitting fees for Advisory Councils are advised from time to time by way of Circular. The current rates, effective from 1 November 2004 are:

	Chair	Member
Full day	\$342	\$207
Half day	\$171	\$104

Ministers may determine sitting fees to the current maximum rates. Rates beyond the maximum must be approved by the Premier.”

Key Agencies

NSW Premiers Department

- 2.7 As a lead agency in directing the NSW public sector, the NSW Premiers Department has taken responsibility for the development of key documents in the corporate governance framework.

NSW Treasury

- 2.8 The agency has a focus on budget and performance and efficiency issues in the public sector. NSW Treasury also issues circulars, directions, policy and guidelines to agencies on governance issues.
- 2.9 NSW Treasury also has responsibility for the Treasury Managed Fund.
- 2.10 The annual reports review program is undertaken by NSW Treasury in order to test compliance with legislative requirements and to promote best practice.
- 2.11 The Results and Services Plans are managed by Treasury:
- “The RSP is a high level funding plan that captures the linkages between strategic, operational and financial planning of agencies. It demonstrates the relationship between the services that agencies deliver and the results

that they are working towards, and provides a context for developing meaningful performance information.”⁴

NSW Audit Office

2.12 Through its core functions, the Audit Office fulfils an important role in the accountability of the NSW public sector. The core functions include:

- Financial Audits – Independent opinions of NSW government agencies financial reports
- Compliance Audits – Confirm that specific legislation, directions and regulations have been adhered to by government agencies
- Performance Audits – Determine if an agency is carrying out activities efficiently, economically and in compliance with the law
- Protected Disclosures – Examines allegations of serious and substantial waste of public money

Circulars

Issued by NSW Treasury

2.13 List of Annual Reporting Circulars as at September 2006

- NSW TC 06-21 Annual Reporting Update
- NSW TC 05-07 Annual Reporting Update
- NSW TC 04-05 Annual Reporting Update
- NSW TC 03-11 Changes to Annual Reporting Regulations
- NSW TC 03-09 Guidelines on Reporting of Investment and Liability Management Performance
- NSW TC 03-07 Annual Reporting Update
- NSW TC 02-17 Equal Employment Opportunity Disclosure Requirements
- NSW TC 02-14 Controlled Entities Accounting, Auditing and Annual Reporting Requirements
- NSW TC 02-08 Annual Reporting Update
- NSW TC 01-19 Annual Reporting Update
- NSW TC 01-12 Annual Reports Legislation – Reporting on Payment of Accounts
- NSW TC 01-01 Annual Reporting Internet Website

⁴ NSW Treasury Circular NSW TC 05-07 Annual Reporting Update

Summary of the Contents of Treasury Circulars on Annual Reporting

- 2.14 These set the submission date for annual reports. The date is no later than four months after year-end (the Minister then has one month to table).
- 2.15 Minimum disclosure requirements for annual reports include: summary review of operations, economic or other factors impacting upon the achievement of operational objectives, nature and range of activities undertaken, standard for service provision, risk management and insurance arrangements, disclosure of executive remuneration rates, management structure, details of the cost effectiveness of production, reporting of investment and liability management performance, details of consultancies, statement of waste reduction and purchasing policy, future corporate directions, equal employment opportunity disclosures, accounting and audit requirements as per the *Public Finance and Audit Act 1983*, occupational health and safety disclosures, the extent and main features of consumer complaints, certification of compliance with credit card guidelines by the head of agency, report on the status of the delivery of electronic services, details of human resources, details of freedom of information statistics, information on land disposal, a copy of the code of conduct, performance reporting, ethnic affairs priority statement and inclusion of quarterly payment information.
- 2.16 It is recommended that agencies undertake the collection of performance reporting information throughout the year to enabling reporting to be done in the annual report of the outcomes of the activity.

Issued by the NSW Premier's Department

- 2.17 Relevant Ministerial memoranda and Premier's Department circulars for 2002-2006 as at September 2006
- M2004-10 Government Boards and Committees
 - M2004-06 Freedom of Information (FOI) and Counter Terrorism
 - C2006-13 Review of Cabinet Document Exemption Claims under the Freedom of Information Act
 - M2006-11 NSW Procurement Reforms

Summary of contents of Ministerial Memoranda and Premier's Department Circulars

- 2.18 The above documents stipulate changes to maximum sitting fees for advisory committee members and changes to the advertising of vacant advisory committee positions and changes to the *Freedom of Information Act 1989* creating a counter terrorism exemption. Various

rates of remuneration and conditions of employment were issued for senior positions inclusive of greater accountability mechanisms. Changes were also made to the certification of cabinet documents. The procurement of goods and services in the public sector altered to ensure that where available State Contracts Control Board whole-of-government contracts are used by all agencies except for State Owned Corporations.

Chapter Three - Public Sector Corporate Governance in other Australian Jurisdictions

Summary

- 3.1 Public sector corporate governance practice in other Australian jurisdictions has the following key features:
- Governance responsibilities of statutory authorities do not vary significantly across states.
 - Accountabilities for financial management and financial statements are generally provided for in financial management legislation. All are subject to the audit requirements of their respective state auditor and to the annual reporting obligations mandated in their enabling, financial management and corporatisation legislation.
 - All annual reports are tabled in Parliament.
 - The State of Victoria requires public bodies to certify to their responsible Minister their level of compliance with the State's Financial Management Framework. It also requires them to disclose events that would significantly affect the entities' pre-tax profit and cash flow.
 - Government corporations engaged in commercial undertakings are generally required to formulate business plans containing the entities' strategies and financial forecasts and translate these plans into Statements of Corporate Intent. The latter is the basis for the assessment of the entity's performance. Several states require that these plans be consistent with the government's overall strategic plan for the state.
 - Several States have created units, and in the case of Victoria an Authority, to specifically monitor the performance of public bodies. These include the creation of specific office/position such as the Commissioner of Public Service (Victoria and Western Australia) to set and monitor public service standards.

- Performance evaluation of the board and that of its board members is not a common practice across States.
- There are no specific criteria mandating boards or executive management structures. Management structures applied to statutory authorities vary widely.
- The clarity of the relationship between the Minister and the statutory authority for which the Minister is responsible appear to depend on the clarity of the authority's objectives, functions and relationships as defined in its enabling legislation.

The Uhrig Review – Commonwealth

3.2 In 2002, the Prime Minister commissioned a review of the corporate governance of statutory authorities and office holders: *Review of the Corporate Governance of Statutory Authorities and Office Holders*, John Uhrig, June 2003. The review determined that the existing governance arrangements are:

“unclear and inadequate and that there is scope for improvement in authorities’ legislative framework and relationship with Ministers.”

3.3 The review recommended:

- That authorities should be provided with clear expectations by Ministers
- That authorities should address these expectations in their Statement of Intent
- The advisory role of portfolio departments to Ministers be enhanced requiring concurrent submission by Authorities of information provided to Ministers
- The use of board structures should be limited to entities whose board can be granted full powers to act
- That a central body should be formed to advise on the governance arrangements of new authorities to be established
- The creation of an Inspector-General of Regulation to investigate procedures of regulatory authorities
- The legislative basis for statutory agencies should be simplified

3.4 Except for the establishment of the Inspector-General for Regulation, the Commonwealth Government has endorsed the recommendations.

The Department of Treasury and Finance has formed a Corporate Governance Branch to oversee implementation. The unit is assisting various departments in assessing how implementation will proceed in each authority under its portfolio.

Commonwealth Association for Corporate Governance

3.5 In November of 1999 the Commonwealth Association for Corporate Governance released *Guidelines – Principles for Corporate Governance in the Commonwealth, Towards Global Competitiveness and Economic Accountability*. A summary of the principles in the report are contained in the following:

The board should:

Principle 1 – exercise leadership, enterprise, integrity and judgment in directing the corporation so as to achieve continuing prosperity for the corporation and to act in the best interest of the business enterprise in a manner based on transparency, accountability and responsibility

Principle 2 – ensure that through a managed and effective process board appointments are made that provide a mix of proficient directors, each of whom is able to add value and to bring independent judgment to bear on the decision-making process

Principle 3 – determine the corporation's purpose and values, determine the strategy to achieve its purpose and to implement its values in order to ensure that it survives and thrives, and ensure that procedures and practices are in place that protect the corporation's assets and reputation

Principle 4 – monitor and evaluate the implementation of strategies, policies, management performance criteria and business plans

Principle 5 – ensure that the corporation complies with all relevant laws, regulations and codes of best business practice

Principle 6 – ensure that the corporation communicates with shareholders and other stakeholders effectively

Principle 7 – serve the legitimate interests of the shareholders of the corporation and account to them fully

Principle 8 – identify the corporation's internal and external stakeholders and agree a policy, or policies, determining how the corporation should relate to them

Principle 9 – ensure that no one person or a block of persons has unfettered power and that there is an appropriate balance of power and authority on the board which is, inter alia, usually reflected by separating the roles of the chief executive officer and Chairman, and by having a balance between executive and non-executive directors

Principle 10 – regularly review processes and procedures to ensure the effectiveness of its internal systems of control, so that its decision-making

capability and the accuracy of its reporting and financial results are maintained at a high level at all times

Principle 11 – regularly assess its performance and effectiveness as a whole, and that of the individual directors, including the chief executive officer

Principle 12 – appoint the chief executive officer and at least participate in the appointment of senior management, ensure the motivation and protection of intellectual capital intrinsic to the corporation, ensure that there is adequate training in the corporation for management and employees, and a succession plan for senior management

Principle 13 – ensure that all technology and systems used in the corporation are adequate to properly run the business and for it to remain a meaningful competitor

Principle 14 – identify key risk areas and key performance indicators of the business enterprise and monitor these factors

Principle 15 – ensure annually that the corporation will continue as a going concern for its next fiscal year⁵.

Victoria

3.6 The State Services Authority is charged with responsibility for identifying improvements in and the integration of government service delivery, reporting on service delivery outcomes and standards, and promoting high standards of governance, accountability and performance of public entities.

3.7 There is a Public Sector Standards Commissioner appointed under the *Public Administration Act 2004*. The role of the Public Sector Standards Commissioner is to:⁶

... work collaboratively with public sector employers to promote high standards of integrity and conduct in the Victorian public sector by:

- issuing codes of conduct that reinforce the public sector values
- issuing standards on how to apply the employment principles
- promoting the values, employment principles, standards and codes through publications such as the Ethics Framework and Ethics Resource Kit. Details about these publications may be found in current research and publications
- reviewing grievances making recommendations, and reporting to the Premier.

⁵ Commonwealth Association for Corporate Governance, November 1999, CACG Guidelines: Principles for Corporate Governance in the Commonwealth

⁶ State Services Authority website
<http://www.ssa.vic.gov.au/CA2571410025903D/0/4449935FAED061AECA257150003931BD?OpenDocument> date accessed 11 September 2006

- 3.8 The Public Accounts and Estimates Committee report on *Corporate Governance in the Victorian Public Sector* found that the alignment of activities of public bodies with the overall objectives of the government needed improvement. It also found the existing governance arrangements in Victoria's public sector complex. The report made 52 recommendations some of which may have already been addressed by the newly enacted public administration legislation. Some of the key recommendations included:
- the development of a measurable set of major outcomes to be made the basis for whole of government performance management;
 - the development of a better framework for performance reporting;
 - easy access by the public to public body planning, accountability and performance documents; and
 - review of the *State Owned Enterprises Act 1992* and the corporatisation framework with the view of limiting the life of state bodies and limiting the establishment of state owned enterprises to commercial undertakings.

Queensland

- 3.9 In 2002, the Queensland Auditor General conducted a governance and risk management audit on two Queensland Government Owned Corporations. In its report the Auditor General noted:

"The Government Owned Corporations reviewed were found to be well advanced in the implementation of appropriate governance and risk management systems and practices. These entities also demonstrated a comprehensive understanding of better practice in relation to governance and risk management with a number of noteworthy practices being identified."⁷

- 3.10 The report also noted the following practices within the surveyed Government Owned Corporations:
- New members of boards and committees receive induction information and ongoing training
 - Meeting papers for the boards and audit committees were of high standard with clear agendas, circulated with sufficient time for consultation prior to meetings
 - Supporting information provided for meetings was timely and sufficiently detailed to facilitate an effective meeting process

⁷ Auditor General of Queensland Report No. 2 2002-03, July 2002, Queensland

- Government Owned Corporations reviewed had coordinated management systems that clearly outline roles, responsibilities, and delegations across all their operations
- Systems are in place to translate corporate objectives as vehicles for reviewing employee organisational and operational compliance and performance and are subject to internal and external review
- Government Owned Corporations reviewed had Codes of Conduct reflecting better practice principles outlined in the *Public Sector Ethics Act 1994*
- Government Owned Corporations reviewed have implemented comprehensive internal reporting frameworks to support the monitoring and review functions of boards and committees
- Audit committees established operated under comprehensive charters with systems that provide for appropriate oversight
- Quarterly reporting to the Shareholding Minister was timely and contained a balance of financial and operational performance information in accordance with Statement of Corporate Intent
- Risk management is incorporated in the business planning process and systems are in place to facilitate the identification, analysis, monitoring and treatment of risks

Western Australia

- 3.11 The Ministry of the Premier and Cabinet in 1999 developed Corporate Governance Guidelines for Public Sector Chief Executive Officers entitled *Better Management*. While compliance was not mandatory the guidelines did provide an overview of best practice in the following areas: effective CEO corporate governance, clear planning and direction, appropriate and timely information, sound resource management, and adequate controls.
- 3.12 The Committee notes with interest that the Department of the Premier and Cabinet in Western Australia make available on their website details of the Interested Person's Register and of all boards and committees. A sample is contained over the page:

view my ipr details

- End this session
- Learn about the IPR
- Access other links
- Submit feedback
- Return to home page
- Access Youth Register

Premier's Science Council

Details as at: Thu, 23 February 2006

Portfolio : Science and Innovation

Board Type : Advisory Committees

Function: 1. building a science and technology base in WA schools; 2. expanding the research capacity of WA's universities, colleges and industries; and 3. developing new centres of research excellence in Western Australia.

Created by: Cabinet

Act:

Act section:

Creation date: Mon, 07 May 2001 **Expiry date:**

Plan to terminate: **Terminated:**

Appointment: Minister

Statutory Requirements: Council to comprise eminent individuals drawn from academia, industry and education with expertise from a range of disciplines. The Council will receive administrative support from the Office of Science and Innovation

Requirements:

Meeting frequency: As Required **Annual report:** No **Ombudsman Juris:** Yes

Contact details

Contact: Phillip Murray, Manager Program Support

Address: Office of Science and Innovation
Level 2, 197 St Georges Tce
Perth 6000

Telephone/Fax: 9222 8882 / 9222 8888

Email: pmurray@dpc.wa.gov.au

Web site: www.scienceandinnovation.dpc.wa.gov.au

Current membership (15)

<p>Name : Constable, Professor I</p> <p>Designation : CHAIRPERSON [M]</p> <p>From: 11-May-2001</p> <p>To: 31-Dec-2007</p>
<p>Name : Chennell, Mr K</p> <p>Designation : MEMBER [M]</p>

3.13 The ability of any interested party to be able to identify the number, purpose, and basic details about boards and committees that exist in the public sector must be aided by full disclosure on publicly accessible outlets like websites. This serves the interests of transparency in governance.

RECOMMENDATION 1: That information on boards and committees including: the current membership, date of establishment, classification (governing or advisory), purpose, frequency of meetings and contact details be made readily available and easily accessible on both the websites of the NSW Premiers Department and of all NSW public sector agencies who operate boards and committees

Chapter Four - An Overview of Corporate Governance in the Public Sectors of Select International Jurisdictions

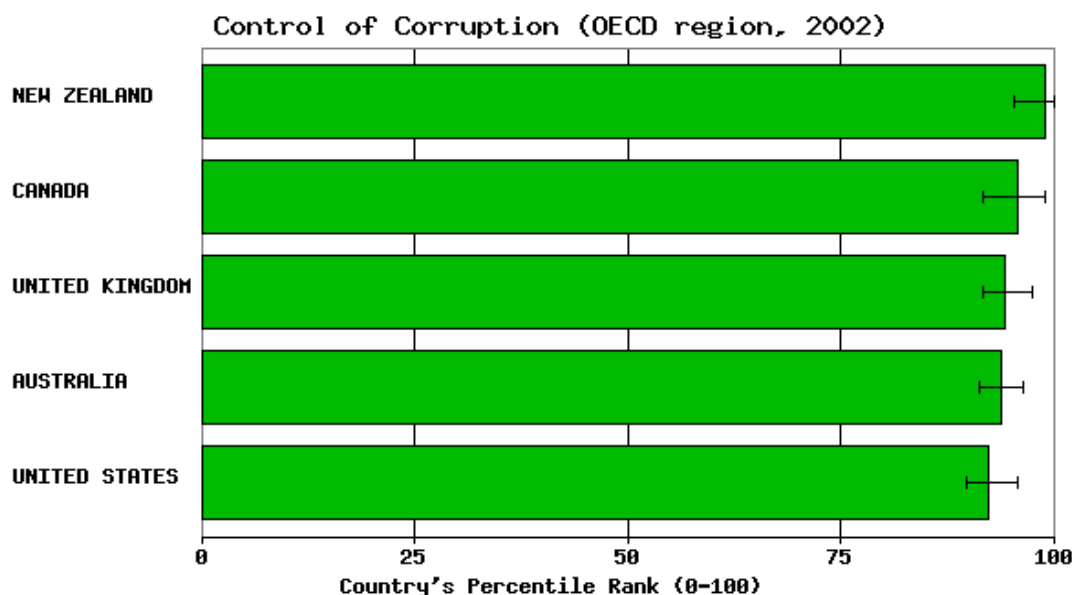
- 4.1 The countries selected to give an overview of corporate governance in international jurisdictions include: the United States of America, Canada, New Zealand and the United Kingdom. These countries have been selected for their similarities to Australia in relation to their respective governance systems, legal systems and economies. The United Kingdom was in part selected because modern corporate governance concepts originated from country.⁸
- 4.2 The style of corporate governance in the countries selected for comparison can be classified on a spectrum with the United States of America at one end with heavy regulating of compliance with requirements which are often mandatory, and with most nations following more closely a disclosure based style of corporate governance.
- 4.3 By introducing the performance of each nation in select areas of governance, a framework for comparison is established thereby enabling the discussion of public sector governance to take place in light of an assessment of that jurisdictions performance as assessed by the Organisation for Economic Cooperation and Development (hereafter OECD).

Comparison of Select Jurisdictions

- 4.4 An OECD Government Research Indicators Project paper entitled *Governance Matters III: Governance Indicators for 1996-2002 revised and released in April 2004*⁹ gives estimates of the performance of one hundred and ninety nine countries in relation to six dimensions of governance.
- 4.5 The results of the countries being examined in this chapter in relation to corruption, government effectiveness, government stability, regulatory quality and rule of law are shown in the following tables:
- 4.6 Control of Corruption – Defined in a Presentation on the Report as “The respect of citizens and state for institutions that govern interactions among them”

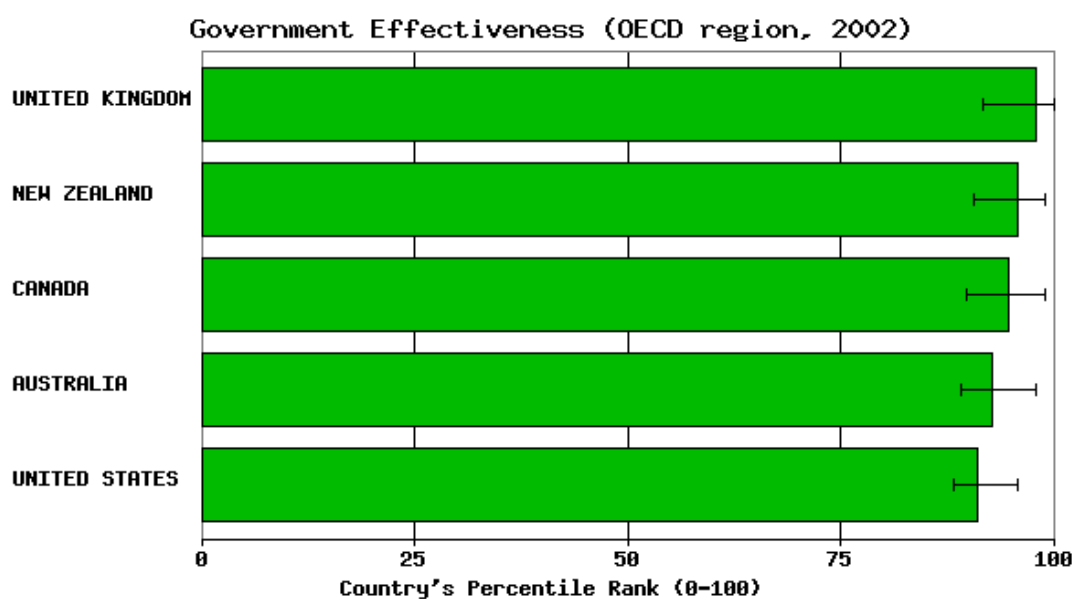
⁸ John Farrer, 2001, Corporate Governance in Australia and New Zealand, page 420

⁹ Daniel Kaufmann, Aart Kraay, Massimo Mastruzzi, 2004, The World Bank, Governance Matters III: Governance Indicators for 1996-2002



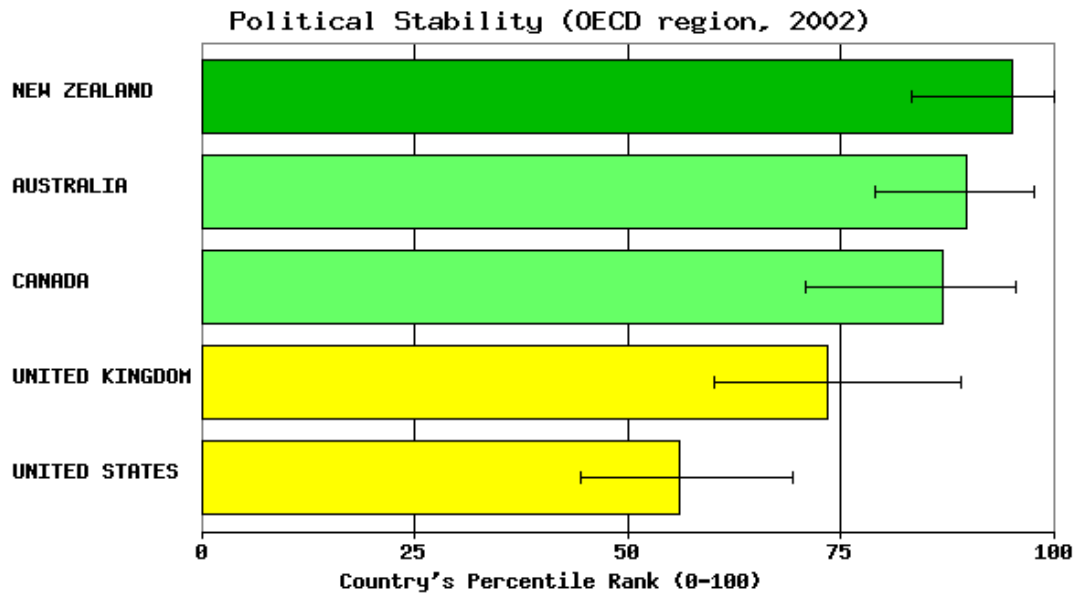
Source: D. Kaufmann, A. Kraay and M. Mastruzzi, 2003: Governance Matters III: Governance Indicators for 1996-2002 (<http://www.worldbank.org/wbi/governance/pubs/govmatters3.html>)

4.7 Government Effectiveness – Defined in a Presentation on the Report as “The Capacity of Government to Formulate and Implement Policy”



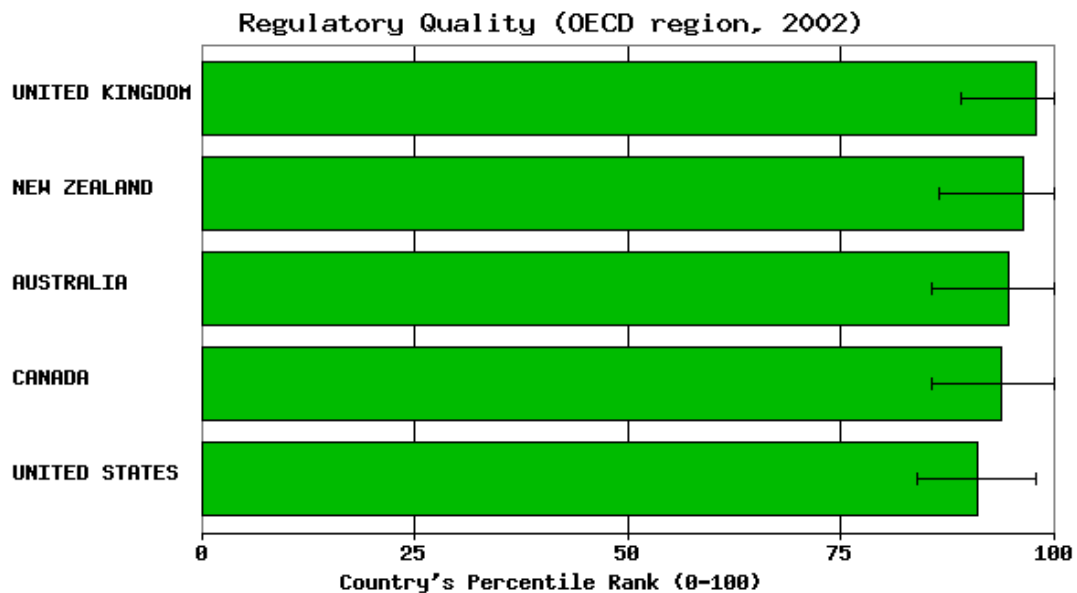
Source: D. Kaufmann, A. Kraay and M. Mastruzzi, 2003: Governance Matters III: Governance Indicators for 1996-2002 (<http://www.worldbank.org/wbi/governance/pubs/govmatters3.html>)

4.8 Political Stability – Defined in a Presentation on the Report as “The Process by which those in Authority are Selected and Replaced”



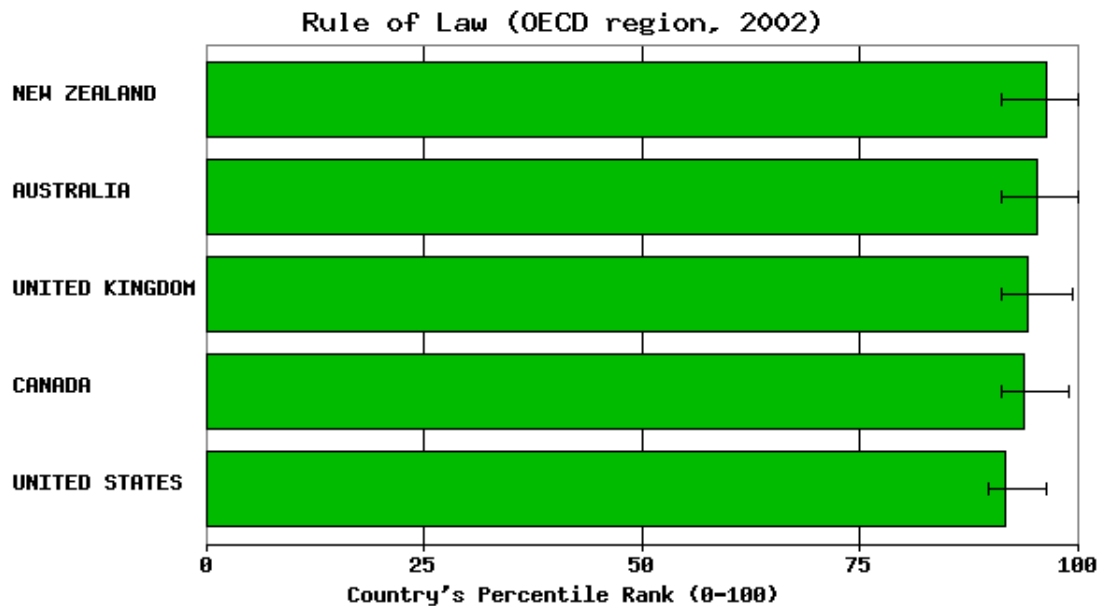
Source: D. Kaufmann, A. Kraay and M. Mastruzzi, 2003: Governance Matters III: Governance Indicators for 1996-2002 (<http://www.worldbank.org/wbi/governance/pubs/govmatters3.html>)

4.9 Regulatory Quality - Defined in a Presentation on the Report as “The Capacity of Government to Formulate and Implement Policy”



Source: D. Kaufmann, A. Kraay and M. Mastruzzi, 2003: Governance Matters III: Governance Indicators for 1996-2002 (<http://www.worldbank.org/wbi/governance/pubs/govmatters3.html>)

4.10 Rule of Law – Defined in a Presentation on the Report as “The respect of citizens and state for institutions that govern interactions among them”



Source: D. Kaufmann, A. Kraay and M. Mastruzzi, 2003: Governance Matters III: Governance Indicators for 1996-2002 (<http://www.worldbank.org/ubi/governance/pubs/govmatters3.html>)

4.11 An examination of the underpinnings of the governance systems of other organisations and jurisdictions by Pat Barrett AO, Auditor-General highlights the consistency of some themes, as illustrated in the following summary:

Figure 2: Alternative 'principles' of governance

ANAO	King (South Africa)	Standards Australia	OECD
Accountability	Accountability	Goodwill	Accountability
Transparency	Transparency	Transparency	Transparency
Integrity	Independence	Honesty	Fairness
Stewardship	Discipline	Legal	Responsibility
Leadership	Fairness	Fairness and balance	
Efficiency	Responsibility	Dignity	
	Social responsibility		

Source: ANAO, Better Practice Guide on Public Sector Governance, July 2003. King, Mervyn S.C. 'Report on Corporate Governance in South Africa, 2002'. Standards Australia, Australian Standard: Good Governance Principles, 2003. OECD, Corporate Governance Advisory Group, 2002.

🇨🇦 Canada

4.12 Canada boasts some of the earliest research into corporate governance. The earliest Canadian report on corporate governance was: *Where Were the Directors? Guidelines for Improved Corporate Governance in Canada (The Toronto Report)*, released in December of 1994.

- 4.13 In a very positive assessment of the regulatory context within which the Canadian Government operates, the Organisation for Economic Co-operation and Development makes the following comments:
- “The Government has central institutions to drive regulatory policies and an array of practices in departments and agencies devoted to improving regulatory outcomes. Regulatory management in Canada can be characterised as both process and results oriented, with a high degree of integrity and professionalism.”¹⁰
- 4.14 Deputy Ministers are those who lead government departments, of which there are twenty-nine. The executive group report to deputy ministers and they total three thousand six hundred.
- 4.15 Performance assessment is assisted by fourteen leadership competencies, which are applicable to executives and assistant deputy ministers. The competencies are categorised into five areas related to: intellectual, management, future building, relationship and personal competencies.¹¹
- 4.16 There are three types of public sector agencies in Canada including service agencies, special operating agencies and departmental agencies.
- 4.17 A key challenge in the corporate governance arena in Canada is the achievement of consistency across the ten provinces and the three territories in the federal system.
- 4.18 The Canada Customs and Revenue Agency was established by federal legislation and differs from agencies in other Commonwealth countries because it does not operate at arms length from its minister.
- 4.19 A recently developed policy on alternative service delivery is noted as being one which will:
- “..support innovation while putting in place the legislative, regulatory, policy and results based management frameworks so that the government can know when and how objectives are met. The policy will apply to all new governance arrangements and ensure that the decision to create an

¹⁰ Organisation for Economic Co-operation and Development, 2002, OECD Reviews of Regulatory Reform, Regulatory Reform in Canada, Government Capacity to Assure High Quality Regulation, page 51

¹¹ Performance Management Program in the Canadian Federal Public Service, Governing for Performance in the Public Sector, 2002, Organisation for Economic Co-operation and Development, page 5-6

alternative form of service delivery is made within the appropriate context.”¹²

- 4.20 The Treasury Board Secretariat is the central funding agency to ninety-five departments and manages risk across those agencies. There is a government-wide integrated risk management policy framework, which stipulates that agencies must identify risk, analyse, prevent, reduce or avoid risk. The office of the Auditor General in Canada holds the role of external auditor.¹³
- 4.21 There are forty-one crown corporations in Canada employing seventy thousand people. In aggregate they manage sixty-eight billion dollars in assets and sixty-one billion dollars in liabilities.¹⁴
- 4.22 Criticism of the process of the appointing of directors was made in the 2000 Report of the Auditor General of Canada in which it is stated that only eighteen percent of the Crown Corporations viewed a specific skill set to complement the board as the top criterion for selecting directors.¹⁵
- 4.23 In June of 2001 the government in British Columbia established the Board Resourcing and Development Office and also have a recruitment and selection process for selection of board members. The process is governed by the following principles:
- Competency Matrix – A strategic analysis of the corporation determines the skills sought in the board member
 - Personal Attributes – Viewed as essential in building a good team
 - Work with the Chair/Board – If a new Board is being created then the Chair is identified first
 - Pro-active Search for Candidates – Identify as many potential candidates as possible
 - Due Diligence – Review of each candidates probity, identify conflicts of interest and the signing of a declaration of fiduciary
 - Diversity – Critical to problem solving
 - Building the Talent Pool – Build the talent pool of the next generation of directors
 - Transparency – Publish key details on appointees
 - Quality Control – Have the Board Resourcing and Development Office as the central office for coordinating and recommending all Board appointments in the public sector

¹² Distributed Public Governance – Agencies, Authorities, and other Government Bodies, Organisation for Economic Cooperation and Development, 22 November 2002, page 54-68

¹³ Public Sector Risk Management: Jurisdictional Literature Study, CPA Australia, page 5

¹⁴ Elizabeth Watson, 2004, Public Sector Corporate Governance: British Columbia's Best Practices Reforms, Ivey Business Journal, page 1

¹⁵ IBID page 2

- Commitment to Best Practices – Board appointments are made with an overall commitment to best corporate governance practices¹⁶

4.24 Statutory authorities account for thirty-five per cent of total public sector employment.¹⁷

The United States of America

4.25 Public sector governance in the US is commonly classified as the most heavily regulated system of corporate governance. Compliance with requirements is often mandatory.

4.26 The collapse of ENRON is often cited as the single most influential event on the development of corporate governance in both the United States of America and internationally. The response of the legislators in the United States of America to the ENRON collapse is best seen in the development of the Sarbanes Oxley Act of 2002. This Act applies to every publicly traded company in the United States of America including companies based outside the United States of America.

4.27 An agency in the United States of America refers to all executive branch entities. Title 5 of the US code applies to all agencies unless exempted. There are fourteen departments in the executive branch, under which bureaux's operate and deliver services. An estimated twenty-three entities are classified as government corporations. Government management in the United States is founded in public laws.

4.28 The Office of Management and Budget evaluates the policies and procedures of agencies in the area of performance management. The General Accounting Office scrutinises the use of public funds and the efficiency of agencies. Line managers are responsible for determining the adequacy of their management controls.¹⁸

4.29 The U.S Government Accountability Office is an independent, non-partisan legislative branch agency described as government's accountability watchdog. Established in 1921 the organisation has teams in portfolio areas with field offices across the United States of America. Their core values are accountability, integrity and reliability.

The United Kingdom

4.30 The United Kingdom boasts being the legislative origin of corporate governance for many other countries including Australia.

¹⁶ IBID Page 4-6

¹⁷ Parliament of Australia, Department of Parliamentary Services, Research Note, The Uhrig Review and the Future of Statutory Authorities, 2005, Page 3

¹⁸ Public Sector Risk Management Jurisdictional Literature Study, CPA Australia, Page 6

- 4.31 The public sector underwent reforms following the introduction of the next steps in 1988 and the Modernising Government White Paper in 1999. The white paper aimed to modernise the public sector through a renewed focus on the perspective of members of the public.
- 4.32 Currently there are one hundred and thirty one agencies in the United Kingdom which employ more than three quarters of the civil service. Executive agencies are legally part of the crown. The Minister and departments delegate powers to agencies. Agencies are headed by a chief executive (appointed by Ministers) and do not have governing boards.¹⁹
- 4.33 Most Ministers are responsible for agencies and have an independent source of strategic advice on the performance of the said agency and the chief executive of the agency. Funding is allocated to agencies through the relevant department on a three-year basis. An estimated eighteen agencies exist outside this funding scheme by acting as trading funds.
- 4.34 The performance of agencies is monitored by the setting of targets for agencies, public service agreements, monitoring of charter statements, the six Whitehall standards which predominantly relate to contact with the public, service delivery agreements, the public services and productivity panel and the public sector benchmarking service.
- 4.35 Controls on agencies and initiatives in the improvement of quality include: the adoption of the European Foundation for Quality Management model, the Charter Mark (an accreditation scheme for improvements in the delivery of public services) and the national standard for training called *Investors in People*. The Parliament has two resolutions on Ministerial Accountability.²⁰
- 4.36 Non-departmental public bodies (hereafter NDPB'S) are defined by their distance from the Minister. The majority of executive NDPB's are bodies corporate, while advisory NDPB's are still part of the Crown. All are governed by a Board, typically constituted by members appointed by the Minister. An independent Commissioner for Public Appointments oversees these appointments. Board members are typically unpaid.²¹
- 4.37 The provision of advice on risk management to public sector agencies is the role of The Cabinet Office and the HM Treasury, with HM Treasury also being responsible for the development of corporate governance. Several documents address risk management specifically and agencies

¹⁹ Distributed Public Governance – Agencies, Authorities, and other Government Bodies, Organisation for Economic Cooperation and Development, 22 November 2002, page 210-214

²⁰ IBID Page 215-225

²¹ IBID Page 226-240

respond to an action plan from Cabinet and also receive training on risk management.²²

4.38 The Good Governance Standard for Public Services from the Independent Commission for Good Governance in Public Services has six main principles:

- 1) Focussing on the organisations purpose and on outcomes for Citizens and Service Users
- 2) Performing Effectively in Clearly Defined Roles and Functions
- 3) Promoting Values for the Whole Organisation and Demonstrating the Values of Good Governance Through Behaviour
- 4) Taking Informed and Transparent Decisions and Managing Risk
- 5) Developing the Capacity and Capability of the Governing Body to be Effective
- 6) Engaging Stakeholders and Making Accountability Real²³



New Zealand

4.39 The style of corporate governance in New Zealand has been classified as a hybrid approach²⁴ with a mix of mandatory compliance of some rules and disclosure based rules with adaptations of international developments in corporate governance to suit the size of the New Zealand economy. Statute, code and common law principles provide for corporate governance.

4.40 The joint Australian/New Zealand Standard for Risk Management is a tool used in conjunction with other systems to ensure effective risk oversight, internal control and management.

4.41 The public sector comprises approximately three thousand organisations. Less than fifty of these are departments of state and less than twenty are state owned enterprises. The majority are classified as crown entities.

4.42 The crown entities are typically established by government or through legislation and are accountable for their use of public funds. Crown entities are typically governed by boards of which members are appointed by the responsible minister, or by the governor-general on the advice of ministers. The board members appoint the chief executive.

²² Public Sector Risk Management Jurisdictional Literature Study, CPA Australia, Page 5

²³ The Independent Commission on Good Governance in Public Services, The Good Governance Standard for Public Services, 2004

²⁴ PriceWaterhouseCoopers, July 2003, Corporate Governance Focus, page 2

The boards of crown entities are modelled on private sector boards. There are three types of governance structures for crown entities:²⁵

“1. Crown owned companies CROCs

A CROC has a commercial structure established under private law to meet both its public policy and commercial objectives. The Minister of Finance is always one of two shareholding ministers of these companies. The other shareholding minister has a ministerial portfolio in the area in which that company operates.

2. Statutory (non company) crown entities

There are a variety of statutory entities that are creatures of statute, governed by a board. The most common feature is that in most the chief executive does not sit on the board. This serves two functions – reduces dominance by the chief executive and insulates the chief executive appointment process from ministerial control.

3. Corporations sole

A small number of statutory entities, such as the Retirement Commission and the Police Complaints Authority, are recognised as corporations sole. These differ significantly from other forms of Crown entity. Specifically, a corporation sole is governed by a single person rather than a board. That is, the chief executive of the entity takes the responsibilities that would normally fall on a board in another type of entity (such as, the setting of the entity’s strategic direction and policy, or ensuring the entity’s compliance with the law.”²⁶

4.43 The exception to the above classifications is crown trusts. The governance arrangements of crown trusts depend on the provision of the relevant trust deed.

4.44 The enabling statute often sets out the provision for the appointment of the chief executive and the employment of staff including compliance with equal employment opportunity policy.²⁷

4.45 In the area of accountability it is said that:

“The role and powers of the responsible minister, and of the relationship between the minister and crown entity are not well articulated in legislation or elsewhere, and vary from entity to entity. There is also a statement of

²⁵ Distributed Public Governance – Agencies, Authorities, and other Government Bodies, Organisation for Economic Cooperation and Development, 22 November 2002, page 133-141

²⁶ ibid page 145

²⁷ ibid page 148 and page 153

expectation of the state sector and a statement of commitment by the government to the state sector.²⁸

- 4.46 The Crown Corporations Monitoring Advisory Unit advises the relevant Minister on the outcomes of the monitoring that it undertakes of the achievements of individual companies. New Zealand Treasury is a separate entity charged with the responsibility for the provision of whole of government advice.²⁹
- 4.47 The State Services Commission promotes the addressing of risk management in public sector agencies in New Zealand.³⁰
- 4.48 The New Zealand Controller and Auditor General's report entitled *Reporting Public Sector Performance* outlines the elements of a comprehensive model of performance reporting. Central to this model are the following:³¹
- Results – what an agency achieves, its actual outcomes, the impact of government activities on the community, and how the community is better or worse off as a result of these activities
 - Interactions with the public – process of the agency and the delivery of goods and services (outputs) to the public
 - Costs – inputs, the resources met by the taxpayer that are applied to the task. Costs also include any decline in the agency's capability
- 4.49 The Crown Entities Act 2004 details the relationship between Crown entities' boards, ministers and parliament. It stipulates the instances in which a minister may direct an entity to conform with policy and gives the minister power to direct entities to work together as part of a whole of government approach.³²
- 4.50 The Crown Corporations Monitoring Advisory Unit advises the minister on the performance of individual companies, while the Treasury is a separate entity and gives whole of government advice to the Treasurer.³³

²⁸ ibid page 148 and page 153

²⁹ 1998, NSW Audit Office, Governance Models Elsewhere, page 6-7

³⁰ Public Sector Risk Management Jurisdictional Literature Study, CPA Australia, Page 6

³¹ Reporting Public Sector Performance, Report of the Controller and Auditor-General for New Zealand, 12 July 2001, Figure 5

³² Parliament of Australia, Department of Parliamentary Services, Research Note, The Uhrig Review and the Future of Statutory Authorities, 2005, Page 3

³³ Governance Models Elsewhere, NSW Audit Office www.audit.nsw.gov.au date accessed 5 January 2006

The Organisation for Economic Cooperation and Development

4.51 The Organisation for the Economic Cooperation and Development *Guidelines on Corporate Governance of State Owned Enterprises* are non-binding and intended to complement the *Principles of Corporate Governance*.

4.52 The guidelines are centred on the following topic areas:

- Ensuring an Effective Legal and Regulatory Framework for State Owned Enterprises
- The State Acting as an Owner
- Equitable Treatment of Shareholders
- Relations with Stakeholders
- Transparency and Disclosure
- The Responsibilities of the Boards of State Owned Enterprises

4.53 The guidelines were in part generated as a response to the results of a study conducted by the Organisation for Economic Cooperation and Development which found that:

“...the challenges facing such firms, including conflicting corporate objectives, unclear board responsibilities and opaque appointment procedures.”

4.54 The Organisation for Economic Cooperation and Development advocates for the following actions to be undertaken to address the issues raised above:

“Ensure a level-playing field for state-owned enterprises competing with the private sector by:

- Clearly separating the state’s ownership role from its regulatory role
- Allowing more flexibility in capital structures while making sure that state-owned enterprises face competitive access to finance

Become more informed and active shareholders by:

- Simplifying the chain of accountability through centralising or more effectively coordinating shareholding responsibilities within the state administration
- Reducing political interference in day-to-day management
- Introducing a transparent nomination process for boards, based on competence and skills

Empower boards by:

- Clarifying their mandates and respecting their independence
- Separating the role of Chairman and CEO and giving boards the power to appoint CEOs
- Systematically monitoring the board's performance

Improve transparency by:

- Strengthening internal controls
- Carrying out independent, external audits based on international standards
- Disclosing any financial assistance from the state
- Producing aggregate performance reports"

The International Federation of Accountants

4.55 The International Federation of Accountants published *Corporate Governance in the Public Sector: A Governing Body Perspective* which in the tradition of the Cadbury Report (United Kingdom) recommends the adoption of private sector corporate governance principles in the public sector. The guide rests on the three principles of openness, integrity and accountability.

4.56 The Checklist for Governing Bodies on Good Governance contained as appendix one in *Corporate Governance in the Public Sector: A Governing Body Perspective* addresses the following areas:

STANDARDS OF BEHAVIOR - LEADERSHIP

1. Has the governing body taken steps to ensure that its members exercise leadership by conducting themselves in accordance with high standards of behavior?

CODE OF CONDUCT

2. Has the governing body adopted a formal code of conduct defining the standards of behavior to which individual governing body members and all employees of the entity are required to subscribe?
3. Does the governing body periodically review adherence to the code of conduct?

OBJECTIVITY, INTEGRITY, AND HONESTY

4. Has the governing body established appropriate mechanisms to ensure that members of the governing body and employees of public sector entities are not influenced by prejudice, bias or conflicts of interest?

ORGANIZATIONAL STRUCTURES AND PROCESSES - STATUTORY ACCOUNTABILITY

5. Has the governing body established effective arrangements to ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice?

ACCOUNTABILITY FOR PUBLIC MONEY

6. Has the governing body established appropriate arrangements to ensure that public funds and resources are:

- properly safeguarded?
- used economically, efficiently, effectively, appropriately, and with due propriety?
- used in accordance with the statutory or other authorities that govern their use?

COMMUNICATION WITH STAKEHOLDERS

7. Has the governing body established:

- clear channels of communication with the stakeholders on the entity's mission, roles, objectives and performance?
- appropriate processes to ensure that such channels operate effectively in practice?

8. Has the governing body made an explicit commitment to openness and transparency in all the activities of the entity?

9. Does the governing body:

- report publicly the processes for making appointments to the governing body?
- make publicly available the names of all governing body members, together with their relevant other interests?

ROLES AND RESPONSIBILITIES

10. Is there a clearly defined division of responsibilities at the head of the body to ensure a balance of power and responsibility?

11. Does the governing body:

- meet regularly?
- effectively lead and exercise control over the entity?
- monitor the executive management?

12. Do members of the governing body receive induction training on the first occasion of appointment to the governing body, and subsequently as necessary?

13. Has the governing body established appropriate arrangements to ensure that it has access to all such relevant information, advice and resources as are necessary to enable it to carry out its role effectively?

14. Has the governing body established a framework of strategic control (or scheme of delegated or reserved powers)?

15. Does the governing body keep the framework of strategic control up-to-date?
16. Does the framework of strategic control include a formal schedule of those matters specifically reserved for the collective decision of the governing body?
17. Has the governing body established clearly documented and understood management processes for:
- policy development, implementation and review?
 - decision-making, monitoring, control and reporting?
18. Has the governing body established formal procedural and financial regulations to govern the conduct of its business?
19. Where the body is responsible for making appointments to the governing body, has it established a formal process to ensure that such appointments are made:
- in accordance with specified criteria?
 - on the basis of merit and the individual's ability to carry out a defined role within the organization?
20. Where the body is responsible for making appointments to the governing body, are such appointments dealt with by the governing body as a whole?
21. Is the role of the Chairperson formally defined in writing, and does it include responsibility for providing effective leadership to the governing body and for the activities of the entity as a whole?
22. Are non-executive governing body members:
- independent of management?
 - free from any other relationships that may materially interfere with exercising an independent judgment on issues of strategy, performance, resources and standards of conduct?
23. Where the governing body is responsible for making appointments of non-executives to the governing body, are the:
- appointments for a fixed term?
 - reappointments subject to a formal appraisal process?
24. Does the Chief Executive have line responsibility for all aspects of executive management?
25. Is the Chief Executive accountable to the governing body for the ultimate performance of the entity and implementation of the governing body's policies?
26. Are the duties, terms of office, remuneration and the review thereof, of non-executive governing body members defined clearly?
27. Has the governing body made a senior executive responsible for ensuring that appropriate advice is given to it on all financial matters and for maintaining an effective system of internal and financial control?
28. Has the governing body made a senior executive responsible for ensuring that governing body procedures are followed and that all applicable statutes and regulations, and other relevant statements of best practice are complied with?

29. Has the governing body established a formal and transparent procedure for developing policy on executive remuneration and for fixing the remuneration packages of individual members of the governing body?

30. Has the governing body established procedures to ensure that no member of the governing body is involved in determining his or her own remuneration?

31. Does the annual report of the governing body contain a statement on the remuneration policy and details of the remuneration of the members of the governing body?

CONTROL - RISK MANAGEMENT

32. Has the governing body taken steps to ensure that effective systems of risk management are established as part of the framework of internal control?

INTERNAL AUDIT

33. Has the governing body taken steps to ensure that an effective internal audit function is established as part of the framework of internal control?

AUDIT COMMITTEES

34. Has the governing body established an audit committee, comprising non-executive members, with responsibility for the independent review of the framework of control and of the external audit process?

INTERNAL CONTROL

35. Has the governing body taken steps to ensure that an effective framework of internal control:

- is established?
- operates in practice?

36. Does the governing body include in its annual report a statement on the effectiveness of the body's framework of internal control?

BUDGETING AND FINANCIAL MANAGEMENT

37. Has the governing body ensured procedures are in place to ensure effective and efficient budgeting and financial management?

STAFF TRAINING

38. Has the governing body established training programs to ensure that staff are competent to perform the task at hand?

EXTERNAL REPORTING - ANNUAL REPORTING

39. Does the governing body publish on a timely basis an objective, balanced and understandable annual report?

40. Does the annual report contain a statement explaining the responsibilities of the governing body?

41. Does the governing body include in its annual report a statement confirming that it has complied with relevant standards or codes of corporate governance?

42. Does the governing body ensure that financial statements comply with a recognized set of accounting standards?

PERFORMANCE MEASURES

43. Does the governing body institute and report relevant performance measures?

EXTERNAL AUDIT

44. Has the governing body taken steps to ensure that an objective and professional relationship is maintained with the external auditors?

4.57 The International Public Sector Accounting Standards Board of the International Federation of Accountants has produced a set of twenty-one standards on public sector accounting with the aim of increasing the transparency of government financial statements.

4.58 The International Corporate Governance Network responded to the OECD Principles by issuing a statement encouraging people to adopt as a foundation the OECD principles but to expand on them.

Chapter Five - Survey of New South Wales Boards and Committees and Agencies

Background

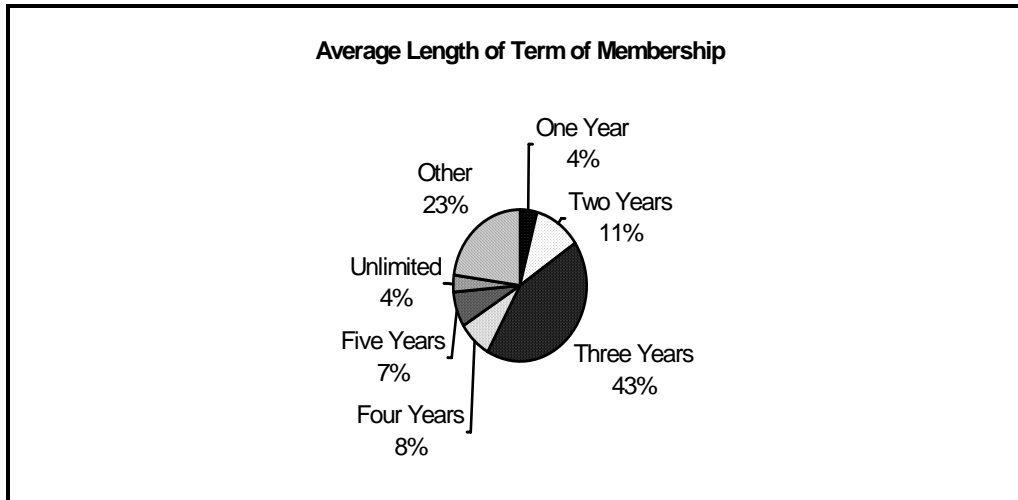
- 5.1 In 2005 a survey on corporate governance was distributed through Minister's offices to all NSW boards, committees and agencies. The survey consisted of Part A and Part B addressing the following topics: the corporate governance framework in NSW, the corporate governance framework of the agency and issues in the implementation of the framework, arrangements with the Chief Executive Officer, planning and control mechanisms, accountability, reporting and performance review, stakeholders and organisational culture.
- 5.2 All boards and committees were asked to complete Part A to give a profile of the boards and committees in existence in NSW, while either the governing or advisory Board or agency was asked to complete Part B to detail the corporate governance arrangements of individual agencies.
- 5.3 Of a total of 308 responses requested the Committee received a total of 272 responses to Part A. A response rate of 88% to Part A from a good cross section of portfolio areas ensures that the profile provided is indicative of public sector boards and committees in NSW.
- 5.4 A total of 118 responses was received to Part B from a combination of governing boards, state owned corporations, statutory corporations, agencies, tribunals, advisory boards and a smaller number of joint responses from governing boards and agencies.

Part A - Results

- 5.5 Half of the respondents to Part A came from the portfolio areas of: primary industries (18%) and education and training (11%), with the portfolios of premier, environment and fair trading each accounting for 7%. The total number of respondents by portfolio area are shown below in descending order over the page:

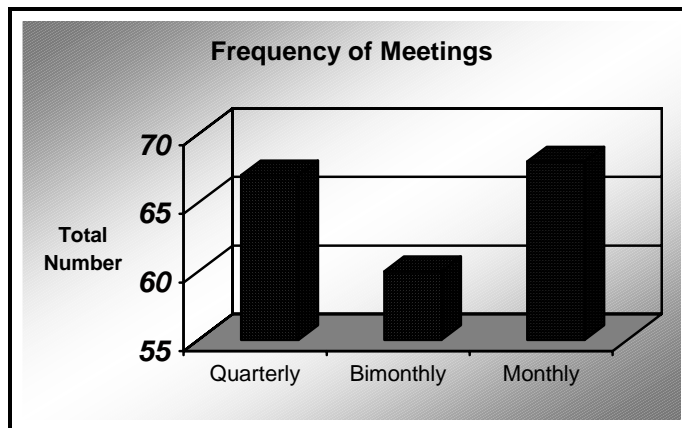
Portfolio	Total Number of Respondents
Primary Industries	48
Education and Training	30
Premier	19
Environment	19
Fair Trading	18
Commerce	13
Attorney General	12
Tourism Sport and Recreation	12
Mineral Resources	11
Energy and Utilities	11
Transport	7
Industrial Relations	7
Emergency Services	6
Ports	6
Youth	5
Police	5
Planning	5
Local Government	4
Community Services	4
Housing	4
Gaming and Racing	4
Arts	3
Disability Services and Ageing	3
Lands	3
Roads	3
Treasurer	3
Juvenile Justice	2
State Development	1
Women	1
Regional Development	1
Small Business	1
Health	1

- 5.6 More than three quarters of boards and committees responding were established through legislation, while 10% were set up through a ministerial directive and the remaining 15% were established by a variety of other means including being set up by the Chief Executive Officer.
- 5.7 The average total number of members of surveyed boards and committees stood at ten, with the average number of external members at seven of those ten.
- 5.8 The average length of the membership term is summarised below:



- 5.9 Appointments to boards and committees by the relevant Minister accounted for 22% of appointments with a fairly evenly dispersed number of appointments made by other methods including appointment by the Governor, by Cabinet and appointments made in keeping with legislative provisions and policy directives.
- 5.10 The termination of members of boards and committees was not a question which attracted a high response rate but of the roughly one third of respondents who answered this question the Minister exercised rights to terminate members in 14% of cases. The grounds of bankruptcy, unexplained successive absences from meetings and other circumstances were offered by respondents as instances where membership of boards and committees could be terminated.
- 5.11 The relevant minister selected the chairperson for close to half of the boards and committees responding. The selection of chairpersons by way of voting was only utilised in 10% of instances. Other methods of selecting the chairperson included appointment by the Governor and election involving voting shareholders.
- 5.12 A small percentage (8%) of surveyed boards and committees indicated that their role was a governance role. The majority performed functions related to the provision of advice, consultation, oversight, operational functions and fulfilment of legislative requirements. The thirteen state owned corporation boards that completed Part A of the survey represent a total of 62% of all state owned corporations in NSW.
- 5.13 The average age of boards and committees in NSW is 4.5 years. The range in ages of boards and committees is quite pronounced ranging from one year to one hundred and fifty six years with a median of 6 years.

- 5.14 Close to three quarters of boards and committees responding were meeting on either a monthly, bi-monthly or quarterly basis with the remainder using a variety of other arrangements including meeting on request, meeting weekly and meeting every six weeks. The following graph highlights the distribution of meeting arrangements between quarterly, bimonthly and monthly.



- 5.15 Of the 63% of boards and committees which responded to the question on the performance review process 13% stated that there was no process in place, 9% did not feel that the question was applicable to them, roughly a quarter had an informal and often internal process for performance review while the remaining 16% used a combination of reporting to Parliament, annual reporting and review by the Minister, Cabinet or the Director-General.
- 5.16 In keeping with the legislative basis for the large number of boards and committees 34% cite legislative requirements as the justification for the continuing existence of the board or committee. The provision of expert advice is offered by 18% of respondents as the rationale for their on going existence, with a small number offering other reasons including acting as a representative body, adhering to best practice and relevance to industry.

Part B – Results

- 5.17 From a total of 347 agencies the Committee received 118 responses to the in-depth Part B of the survey giving a response rate of 34%. This means that results should be interpreted with some caution and that trends may highlight potential issues in need of further investigation. The 118 responses are for the purposes of analysis categorised under the following:

State Owned Corporations (total 12)

Country Energy
Delta Electricity
Energy Australia
Eraring Energy
Macquarie Generation
Newcastle Port Corporation
Port Kembla Port Corporation
Rail Corporation New South Wales (RailCorp) Board
Sydney Ferries Corporation
Sydney Ports Corporation
Transgrid
Transport Infrastructure Development Corporation Board

Larger Government Departments (total 22)

Department of Juvenile Justice
NSW Police
Department of Planning
Premier's Department
NSW Department of Primary Industries
Department of State and Regional Development
Tourism NSW
NSW Treasury
NSW Audit Office
Board of the Legal Aid Commission of NSW
RTA
Rail Corporation New South Wales (RailCorp) Board
The Attorney General's Department
Department of Commerce
Department of Community Services
The Department of Education and Training
Department of Energy, Utilities and Sustainability
Department of Environment and Conservation
Department of Gaming and Racing
NSW Health
The Department of Housing

Boards & Committees (total 61)

Teacher Housing Authority of New South Wales
NSW Rural Fire Service
NSW State Emergency Service
NSW Business link
Coal Compensation Board
Board of Trustees, University of Western Sydney
The University of Sydney Senate
Premier's Council for Women
Council of the University of Technology, Sydney
Motor Accident's Authority
The Aboriginal Housing Office
Rail Corporation New South Wales (RailCorp) Board

Public Bodies Review Committee

State Transit Authority Board
Sydney Ferries Corporation
Independent Transport Safety and Reliability Advisory Board
Tow Truck Authority Board
Transport Infrastructure Development Corporation Board
NSW Regional Development Boards
Small Business Development Corporation of NSW
Aboriginal Justice Advisory Council
Board of Governors for the Law and Justice Foundation of NSW
The Children's Court Advisory Committee
Legal Profession Advisory Council
NSW Sentencing Council
Privacy Advisory Committee
Victims Advisory Board
NSW Ministerial Advisory Committee on Ageing
Home Care Service Advisory Board
The NSW Home and Community Care State Advisory Committee
Southern Cross University
Board of Surveying and Spatial Information
Geographical Names Board of NSW
Regional Communities Consultative Council
Workcover Board
Building and Construction Industry Long Service Payments Corporation
Liquor Administration Board
Transgrid
Pillar Administration
Honeysuckle Development Corporation
Macquarie Generation
NSW Board of Studies
Sydney Ports Corporation
Sydney Olympic Park Authority
Wollongong Sportsground Trust
Parramatta Stadium Trust
Parramatta Park Trust
Newcastle Showground and Exhibition Centre Trust
NSW Institute of Sport
Energy Australia
Newcastle Port Corporation
NSW Fire Brigades
Port Kembla Port Corporation
Sydney Cricket & Sports Ground Trust
Centennial and Moore Park Trust
State Sports Centre Trust
Hunter International Sports Centre Trust
Boxing Authority of NSW
Tourism NSW
National Parks and Wildlife Advisory Council
Lord Howe Island Board
Royal Botanic Gardens and Domain Trust

Part B Responses from State Owned Corporations

State Owned Corporations - NSW Public Sector Corporate Governance Arrangements

- 5.18 The bulk of respondents indicated that the *Public Finance and Audit Act 1983, Annual Reports (Departments) Act 1985, Annual Reports (Statutory Bodies) Act 1984* and the *State Owned Corporations Act 1989* and the relevant legislation establishing statutory and other bodies adequately cover corporate governance responsibilities.
- 5.19 The documents listed below were described as providing an effective corporate governance framework and system for agencies by all but one of the respondents:
- Premier's Department's 'A Model Code of Conduct for NSW Public Sector Agencies: Policies and Guidelines' (1997).
 - Audit Office's 'On Board – Guide to Better Practice for Public Sector Governing and Advisory Boards' (April 1998).
 - Audit Office's 'Public Sector Corporate Governance – Ready Reckoner' (April 1999).
 - Premier's Department's 'Boards and Committees Handbook' (June 2000).
 - Premier's Department's 'Conduct Guidelines for Members of NSW Government Boards and Committees' (November 2001).
 - Premier's Department's 'An Introduction to Board and Committee Membership' (July 2002).
 - Premier's Department's 'Guidelines for NSW Board and Committee Members' Appointment and Remuneration' (June 2003)
- 5.20 Some respondents qualified their responses on the adequacy of the above documents by adding that:
- "In addition to the listed documents, (agency name) adopts best industry practice and receives advice through its internal audit and legal service providers"
- "Some may need updating to reflect changed community expectations and standards"
- "The documents listed generally provide an effective corporate governance framework but there is duplication of effort in reporting. A best practice model would be to rely generally on the legislation detailed in above question."
- "The corporation used these documents as a starting point and provides additional information to newly appointed directors. Other documents include those issued by NSW Treasury and KPMG"

- 5.21 Views were mixed on whether special accountability and governance processes should be adopted by agencies involved in partnership and outsourcing arrangements with not for profit organisations and private sector organisations. While some respondents were of the view that the current arrangements were adequate, other responses advocated for clearer contracts.
- 5.22 The majority of respondents indicated that the current reporting requirements relating to corporate governance are adequate. Three respondents added the following:
- “(agency name) legal advisor has completed a review of the compliance management system guidelines and has prepared a high level gap analysis against AS3806”
- “organisations should consider voluntary compliance with the ASX corporate governance reporting guidelines where they are operating as government businesses.”
- “The statement of corporate intent and the half yearly report is provided to the voting shareholders and tabled in Parliament. Additionally the annual report contains a section on corporate governance”

State Owned Corporations - Agency Specific Corporate Governance Framework and Implementation Issues

- 5.23 The scope of the agency’s individual corporate governance policy was said to be comprehensive by all nine respondents who answered this question. Two respondents indicated that they were in the process of updating their corporate governance policy and one respondent added that:
- “(agency name)is committed to continuous improvement and ensuring that policies remain relevant and are able to be readily adapted and updated”
- 5.24 A single corporate governance handbook or manual was said to exist by half of respondents. One respondent offered this as the reason for not having a single corporate governance handbook in place at the time of the survey:
- “The corporation relies on the ASX Corporate Governance Council Principles of Good Corporate Governance and Best Practice Recommendations”
- 5.25 All of the corporate governance handbooks in place had been developed in 2004 and 2005.
- 5.26 Methods employed to ensure openness, transparency and accountability in the use of public money included: meeting reporting requirements, internal controls, publishing financial and performance

and other information, audit, development of the statement of corporate intent and annual reporting. One respondent indicated that they have adopted:

“... a rigorous internal business performance reporting system called ‘corporate dashboard’”

5.27 Few state owned corporations outlined the methods they used to ensure the accountability of performance outcomes.

5.28 The monitoring of compliance with corporate governance policies and practices is ensured through the following methods:

“Internal reporting is complemented by the services of an external service provider in internal audit who report to the audit and risk committee”

“A compliance committee has been established”

“Detailed expenditure and compliance reporting is provided to the corporation's board by management at each meeting of the board”

5.29 Most other respondents indicated that they use the internal audit process to check on compliance. Audit committees were nominated as playing an important role in this process.

5.30 Only one respondent indicated that there were difficulties in the implementation of effective corporate governance policies and practices:

“To avoid duplication of reporting to shareholders, NSW Treasury and other Government agencies”

5.31 The role of central agencies in the promotion, monitoring and guiding of implementation of a corporate governance framework and processes was said by nine of the twelve state owned corporations to be adequate. The only qualifying statement made was:

“More attention could be given to the required skills and attributes of Board members as they interact with our agency's roles and responsibilities”

State Owned Corporations - Chief Executive Officer

5.32 All of the chief executives officers of state owned corporations were said to have a clear charter on their role, powers, responsibilities and accountabilities. Origins of this charter included legislation, the position description and:

“A comprehensive set of delegations has been issued to the CEO by the Board”

“Covered by the position description, employment contract and conferral of power document”

"A specific position description, contract of employment, performance agreement and delegated power of attorney exists"

"The CEO also has an instrument of delegation from the board of directors. The board is responsible for approving the charter and the instrument of delegation"

5.33 Performance review of those holding the above named office was described as:

"Performance is reviewed against organisational and individual performance, the organisations performance is independently assessed against a set of pre-agreed criteria and individual performance is self assessed and considered by the board of directors, results are reported in the annual report"

"The Board Remuneration and Human Resources Committee conduct a formal performance assessment annually, results are reported in the annual report"

"The Board's remuneration committee reviews the CEO's performance on an annual basis. Recommendations for any bonus payments are made to the portfolio Minister for their agreement"

"The chairman undertakes the review and discusses it with the human resource and remuneration committee and the Board"

5.34 Access by the Chief Executive Officer to the relevant Minister was described by all the respondents as adequate and appropriate.

State Owned Corporations - Planning and Control

5.35 The inclusion of desired outcomes, objectives, key initiatives and performance measures/targets in the strategic and annual corporate plans is said to have been addressed by all but one of the state owned corporation respondents:

"The corporation prepares a formal statement of corporate intent and business plan each financial year. The business plan includes detailed narrative and financial projections for the next ten years. The statement of corporate intent includes publicly available performance targets for the next five years. The statement of corporate intent and the business plan are formally adopted by the shareholders annually."

"The corporation's statement of corporate intent and business plan are developed annually through a comprehensive strategic planning process, a mid year review of the business plan establishes whether initiatives identified in the business plan are still appropriate."

"An annual corporate plan which details objectives and performance measures to be met. An annual strategic planning workshop is held with the executive and senior management. The corporate plan is approved by the Board."

- 5.36 The role of the Board in risk management policy development and in managing risk is for the majority of respondents a comprehensive one with only one respondent indicating that they only participate in an annual risk management review. The remainder of the respondents indicated that:
- “The Board monitors and directs financial and operational performance, develops a set of internal controls, ensures appropriate record keeping, meeting of obligations, develops, oversees, reviews and ensures the effectiveness and integrity of risk management systems and investigates performance.”
- “The Board reviews the risk process and the risks identified by the management team. Management then report to the Board on progress against the risks identified.”
- “The Board regularly reviews the risk register and has requested an action list to be developed and reported on. The responsibilities of the Board in relation to risk management are documented in charters.”
- 5.37 Risk management arrangements and incentives under the Treasury Managed Fund was an area that many of the state owned corporations were not in a position to respond to. The only comment made related to the fund not being able to cater to the risk management needs of one respondent:
- “The (agency name) property risk profile is so large that the Treasury Risk Management Fund is unable to support coverage. Cover is currently procured from Australian and overseas risk markets at world competitive rates.”
- 5.38 Corruption and fraud prevention strategies are said to include a range of activities, namely:
- “The executive team, internal audit and the audit and compliance sub-committee of the Board receive reports on fraud and corruption matters investigated by the internal audit division who conduct investigations, monitor trends and make recommendations on improvements.”
- 5.39 All state owned corporations had an audit committee in place. All of the respondents reported having committees which were performing the following tasks: reviewing the agency’s financial statements, ensuring adequate internal control systems are in place, appointing and liaising with the auditors and overseeing the audit process.

State Owned Corporations - Accountability, Reporting and Performance Review

- 5.40 Accountability frameworks for respondents included annual reporting, tabling of documents in parliament, publishing performance information on the relevant website and more specifically:

“Public statement of corporate intent and annual reporting against the targets in the SCI via tabling in parliament of the SCI, half yearly reporting and annual reporting. A community consultation program is in place and an annual assessment is completed for network operations.”

“A large amount of operational and financial information is provided to shareholders and to the public via a range of processes: monthly chief executive report to NSW Treasury, Statement of corporate intent and business plan to shareholders, half yearly financial report, annual report audited by the audit office.”

“The annual report is distributed to shareholders. Quarterly reports which provide details of actual and forecast performance against the corporation's agreed statement of corporate intent, the half yearly report contains summarised financial info and a review of operations, proposed major changes in the corporation which may impact on agreed performance indicators are discussed with shareholders' representatives, a statement of corporate intent is produced and at the annual meeting with shareholders the SCI is signed, the CEO maintains regular contact with the shareholders and their representatives.”

“The statement of corporate intent, the half yearly review and the annual report are tabled in Parliament. In addition the external audit process provides assurance and transparency as to the accountability reporting and performance of the organisation.”

“Quarterly reporting to shareholding ministers when specific issues arise and direct to the relevant stakeholders. Treasury noted that (agency name) annual report update provides a good example of best practice performance reporting.”

5.41 Annual reporting was the most common mechanism used by agencies to ensure accountability and transparency.

5.42 When asked about the internal audit and periodic performance reviews in place feedback from state owned corporations included the contracting of external services, extensive audit processes and work by audit committees who were typically responsible for taking up issues which arose in the audit process. Notable responses included:

“A program of audits reviewing high risk areas each year is in place, medium risks are reviewed every two years and low risk every three years. The plan is approved by the Audit and Compliance Sub-Committee of the Board and the internal audit division is required to report performance against their plan each quarter to the audit and compliance sub-committee. Significant issues are reported to the sub-committee of the board along with the proposed management action to address any control deficiencies. The internal audit division monitors progress and reports to the sub-committee. The audit office of NSW completed its annual review and any issues are also reported to the sub-committee who tracks implementation of recommendations.”

“The Board audit and risk management committee reviewed the internal audit schedule to ensure it adequately addresses the risks. Audit reports are provided to the Board audit and risk management committee, and then the committee tracks management's actions in relation to the audit recommendations.”

State Owned Corporations - Stakeholders

- 5.43 The identification of, documentation of, responsibilities to and communication with stakeholders is an area in which state owned corporations performed well.
- 5.44 An understanding with the Minister on the strategic direction, reform priorities, objectives and performance expectations of the organisation was said to exist by all respondents and was assisted in some instances by the defining in legislation of the roles and responsibilities of the Minister and a definition of the relationship between the two. Where the roles and relationships were defined in legislation there was an increased likelihood of there being a written definition on the powers of the Minister to give directions to the agency.
- 5.45 The reporting of illegal or unethical practices is an area, which was well covered by state-owned corporations. The results indicated that there had been policy development in the area and that other initiatives had been put in place to facilitate such reporting. Such efforts included: an ethics help line, fraud hotline and publicising the availability of nominated disclosure officers.

State Owned Corporations - Organisational Culture

- 5.46 The building of a corporate culture to match the goals, values and strategies of the organisation was said to be achieved through: codes of conduct, external consultants undertaking reviews of corporate culture, the implementation of performance management systems and regular communication with staff on the topic.
- 5.47 Senior management commitment to good governance has been exemplified through:
- “Development of policies and statements to support the desired culture, establishment and support for the ethics committee, implementation of a performance development system which rewards the appropriate behaviours as well as the delivery of work outcomes.”
- “By actively seeking the advice of corporate counsel on governance issues and by demonstrating commitment and dedication to improving corporate culture”

Part B Responses from Larger Government Departments

Larger Government Departments – NSW Public Sector Corporate Governance Framework

5.48 Confidence in the *Public Finance and Audit Act 1983*, *Annual Reports (Departments) Act 1985*, *Annual Reports (Statutory Bodies) Act 1984* and the *State Owned Corporations Act 1989* was generally high among larger government departments. A commonly suggested weakness is compliance with, and disclosure of, corporate governance policies and procedures. Suggested improvements included:

“A streamlining of responsibilities as they apply to the non-budget sector would make the legislation less onerous. One suggestion would be a provision being inserted into the three acts that would enable exemptions from the applicability of certain obligations.”

“Review and updating of the Annual Reports Act and Regulations to reflect current practices in the public sector”

“A review of Treasurer's directions aimed at providing agencies with a corporate governance framework instead of mandating specific actions would assist agencies to approach best practice corporate governance.”

“Improvements in the governance arrangements for budget sector agencies outsourcing to the private and not for profit sectors, for instance Treasury Policies and Instructions, Guidelines etc”

“More details on what the minimum requirements are in corporate governance. The Public Finance and Audit Act could include a requirement that all agencies have a corporate governance framework. The Annual Reports Act could include a requirement that all agencies report on corporate governance.”

“The Public Finance and Audit Act and the Annual Reports (Departments) Act do not specifically state compliance with corporate governance principles. The Public Finance and Audit Act and its related regulation and directions are primarily aimed at financial accountability and control with other documents being issued on risk management. Both could be considered components of corporate governance. The Annual Reports (Departments) Act and its related regulation specify numerous items that have to be reported on. A large number of the required items would be considered components of individual principles of corporate governance. Neither piece of legislation specifically mentions corporate governance or compliance with stated principles.”

5.49 The policy element of the corporate governance framework in NSW below received mixed responses from this group of respondents. Documents referred to included:

- Premier's Department's 'A Model Code of Conduct for NSW Public Sector Agencies: Policies and Guidelines' (1997).
- Audit Office's 'On Board – Guide to Better Practice for Public Sector Governing and Advisory Boards' (April 1998).
- Audit Office's 'Public Sector Corporate Governance – Ready Reckoner' (April 1999).
- Premier's Department's 'Boards and Committees Handbook' (June 2000).
- Premier's Department's 'Conduct Guidelines for Members of NSW Government Boards and Committees' (November 2001).
- Premier's Department's 'An Introduction to Board and Committee Membership' (July 2002).
- Premier's Department's 'Guidelines for NSW Board and Committee Members' Appointment and Remuneration' (June 2003)

5.50 Suggested improvements to the above named documents included:

"Many of the documents are not well known by officers of agencies. A manual on the internet would assist officers in the application of these policies."

"A potential improvement would be to centralise the documents into a single resource that is accessible to agencies in a readily usable form."

"These documents have been consulted in developing the Department's corporate governance framework. The Australian National Audit Office's Better Practice Guide for Public Sector Audit Committees was also useful in developing a new and more comprehensive charter for the Department's Audit Committee."

5.51 Larger government departments were mostly of the view that governance arrangements for partnerships or outsourcing with private sector and not for profit bodies are adequately addressed through the following: appropriate contractual arrangements, involvement of the state contracts control board, procurement guidelines provisions, performance monitoring, ethical agreements and oversight.

5.52 While mostly of the view that current reporting requirements related to corporate governance are adequate several large government departments qualified their response by adding that:

"There appears to be an increasing demand from central agencies for regular and detailed information on all aspects of the agency's operations and activities. It is considered that some of these reporting requirements overlap so that they may be considered excessive, sometimes detracting from the focus on the achievement of corporate outcomes."

"Yes, if governance frameworks exist they should have inter-related reporting mechanisms and be easy to understand, it would be beneficial if the reporting requirements had consistent reporting formats. Templates

should be able to be generated that streamline the collection of information for governance reporting.”

Larger Government Departments – Agency Specific Corporate Governance Framework and Implementation Issues

- 5.53 Coverage of relevant issues in the corporate governance policies of larger government departments is described as comprehensive. There is acknowledgement that consolidation of separate policies related to governance needs to take place. One respondent stated that no corporate governance policy had been developed.
- 5.54 Six of the twenty-two larger government departments stated that they had a corporate governance handbook, two departments stated that one was in development.
- 5.55 Half of the respondents cited annual reporting as a method used to ensure accountability in the use of public money. Other methods included: the results and services plan, budget reporting, oversight committees, risk assessment, audit, internal controls, and compliance with central agency directives.
- 5.56 In larger government departments ensuring compliance with corporate governance policies and procedures is achieved through the following means:
- “The audit committee is the principal mechanism in this regard. The department commissions the internal audit bureau to conduct reviews, various units follow up any feedback from the NSW Ombudsman.”
- “All business processes are reviewed within 12 months, with many being reviewed on a 6 monthly basis. A number of processes are centralised to ensure compliance, such as the appointment of consultancies and contractors. Feedback on business processes is compiled on an on-going basis and incorporated into the review process.”
- “In addition to corporate plan reporting, financial and performance reporting, internal and external audits and reviews, all chief executives are required to comply with and complete annual corporate governance statements.”
- “An annual review by the executive team.”
- 5.57 Audit committees typically took responsibility for this area of compliance and one respondent indicated that while policies were regularly reviewed compliance with governance policies was not an area which was often reviewed. Reporting to the executive of review outcomes was common.
- 5.58 Review by larger government departments of the continued relevance and effectiveness of it’s boards and committees was said to include:

"The council's membership, performance and relevance are implicitly reviewed during the reconstruction process, normally every two years. Advice is provided to the Minister for consideration prior to recommendations being made to Cabinet. The council has recently been reviewed as part of the 2005 reconstitution process. The council's achievements are reported in the Department's Annual Report which is distributed to relevant stakeholders."

"Review of the relevance and effectiveness of the Department's committees is specified within legislation or charters. The composition and operation of the audit committee was recently reviewed to conform to principles of best practice. The establishment of a new committee structure resulted from a review of committees."

"Many have a legislative base and following the aggregation of multiple departments a progressive view developed to combine many of the functions."

5.59 While some indicated that an annual review takes place others stated that they only had internal committees in place and that they were not subject to regular reviews.

5.60 While five respondents said there were no difficulties experienced in the implementation of corporate governance policies and procedures other respondents indicated that they did experience problems which are described below:

"Resource intensive in the shorter to medium term."

"The diversity and complexity of the (agency name) business poses challenges in developing consistent processes across the organisation. These challenges are being addressed through the development of more integrated planning and performance guidelines and systems and the development of a formal strategic risk identification and assessment process for implementation across the organisation as part of the business planning and performance reporting system in early 2006."

"The major need for the Department is to improve business analysis. Current systems do not provide ready access to required information. Financial constraints have limited system development in the past. The Department is working on a number of projects to improve access to information."

"Challenges associated with high level restructure, the merger of four distinct entities with different cultures based on disparate community expectations and interests."

"A large range of processes need to occur in combination as a total package of reforms to be fully effective, it is these aspects that prove most challenging in implementing effective corporate governance policies and practices."

"There is no specific definition of good corporate governance or method to test good corporate governance."

“Early developmental work in governance highlighted the difficulties of "grafting" private sector governance elements onto a public sector framework. This difficulty was particularly characterised through the ambiguity that dominated the accountability relationships between the boards (CEO and Chair), the Director-General and the Minister. Governance reforms provide a straight-line of accountability.”

- 5.61 The performance of central agencies in the promotion, monitoring and guiding of the implementation of the corporate governance processes of larger government departments was said to be adequate, however, several criticisms were levelled at central agencies and they included:

“Although the central agencies promote corporate governance, the communication and information systems to guide and monitor implementation could be enhanced. The central agencies should have more documentation and websites etc, a suggestion could be establishing business relationship or account managers that foster and monitor corporate governance within agencies.”

“Too much has been left up to individual agencies to piece together all the elements that make up an effective corporate governance framework. There is no definitive model for NSW agencies to follow.”

“The ‘one size fits all’ approach creates unnecessary difficulties in implementation. Accordingly there should be recognition of the different sizes, roles and risk profiles of agencies.”

“Central agencies could play an active role in the co-ordination of the sharing of experiences across the sector. Central agencies should provide a cohesive and co-ordinated approach to the sector.”

“The primary role of central agencies has been to issue "models" for various governance issues. These generally require adaptation to suit the particular operating environment and role of individual agencies but this is to be expected. The audit office has been the most active agency in assessing whether appropriate governance mechanisms and frameworks are in place.”

Larger Government Departments – Chief Executive Officer

- 5.62 Two respondents indicated that there was no clear charter in place for the chief executive officer regarding their role, powers, responsibilities and accountabilities. Those who stated that a charter was clear on the previously mentioned criteria indicated that the charter was explicit in the performance agreement with the Minister, legislation, and delegations.
- 5.63 Review of the performance of the chief executive officer was typically done as part of the performance contract process except when the appointment was a statutory one. The Minister, the Premier, remuneration committees and others were typically involved in reviewing the performance of the chief executive officer.

- 5.64 Access by the chief executive officer to the Minister was said by all respondents to be adequate and appropriate.

Larger Government Departments - Planning and Control

- 5.65 The strategic and corporate plans of larger government departments were said to be inclusive of the desired outcomes, objectives, key initiatives, performance measures and targets of the agency by all of the respondents. Respondents indicated that:

“The corporate action plan incorporates both strategic and annual corporate plan info including desired outcomes, objectives, key initiatives and performance measures and targets. The corporate plan for the department is currently being reviewed. An executive corporate planning workshop will be held and subsequent consultation processes undertaken with staff throughout the agency. The corporate planning processes align with the NSW Government's strategic planning and management cycle. The corporate plan directs business planning and accountability arrangements within the agency. It aligns with the results and services plan that agencies sign up to with NSW Treasury. Each business area of the Department prepares a business plan. These business plans detail actions and services to be undertaken to contribute to the corporate priorities, key actions and major projects outlined in the corporate plan. Teams and individual staff develop work plans to align with these business plans.”

“A five year corporate plan is published and an annual corporate directions statement is also put out. The statement is linked to resource allocation for the coming year.”

“Six priority objectives and performance measures are documented, results and services plans for the department have also been developed in consultation with Treasury. This is a key feature of the new business plan and will link funding to performance.”

- 5.66 The Treasury Managed Fund is viewed positively by the majority of respondents. One respondent, while agreeing that the risk management arrangements and incentives were appropriate, added that:

“TMF offers insurance in the event of risk occurring. However, the Department takes a proactive approach in avoiding risk to reduce the likelihood of insurance claims.”

- 5.67 Another respondent commented that:

“There may be duplication in the TMF's sponsored projects program ie developing similar risk management strategies for various agencies but labelling them differently.

NSW should consider a similar facility to that of Queensland government which has developed a website on the risk management processes for public and private sectors.

Agencies do not receive sufficient credit for the risk management strategies they develop and implement. Perhaps consideration could be given to a credit system whereby agencies receive financial recognition during the premium setting process for the steps taken in the preceding financial year to reduce TMF claims and costs. Alternatively, NSW Treasury could consider funding risk management strategies as a separate component when allocating annual budgets to agencies.

There is much confusion about the process in calculating the deposit and benchmark premiums. This is the case for all lines of business. A review of this aspect would identify agencies concerns and assist in providing a simpler format.

Of similar concern is the long running issue of the accuracy and effectiveness of the reports issued by TMF. Agencies deal with real time accounting principles and practices. However, the TMF accounts are subject to actuarial factors making precise budgeting, for example, for hindsight premiums difficult if not impossible to predict and report within agencies.”

- 5.68 Corruption and fraud prevention in larger government departments were addressed by audit committees, the fraud risk assessment process, internal audit bureaus, codes of conduct, relationships with external agencies like the ICAC and through compliance with the legislative obligations on reporting and responding to corruption. Notable responses include:

“A command management framework is a risk based self assessment process which includes measures to counter fraud and corruption and is reported against quarterly. The professional standards command tracks trends and puts in place intervention and investigatory approaches where necessary.”

“Strategies are monitored through an audit program. The Department has a fraud control plan in place. This is reviewed regularly by the audit committee and by Deloitte as part of the internal audit program. The effectiveness of the fraud control plan is also regularly reported to senior management. All departmental staff must comply with the Department's code of conduct and ethics, which is communicated to all staff in the staff induction program and made available on the infolink website.”

“The corruption prevention and investigation unit conduct presentations, risk assessments, develop policy, make recommendations, undertake investigations and provide a report to the audit committee.”

- 5.69 Aimed at the empowerment of staff to respond to corruption:

“The corruption prevention and ethics committee advises on such matters. A code of conduct and accompanying training is mandatory for all staff. The business assurance unit manages a hot line for reporting of tenant or staff fraud. Officers have been trained in handling disclosures made under the Protected Disclosures Act.”

- 5.70 Three of the twenty-two larger government department respondents did not have an audit committee in place. Of those who did have an active audit committee the majority undertook the full range of tasks typical of audit committees except reviewing and acting on audit reports.

Larger Government Departments - Accountability, Reporting and Performance Review

- 5.71 Annual reporting featured strongly in the responses to the question on accountability frameworks and processes. In order of popularity other responses includes:

Equal 1st Place – Budget papers and budget estimate hearings & financial reporting

2nd Place – Involvement of and reporting to stakeholders

3rd Place – Results and services plan

Equal 4th Place – Audit & cooperation with Parliamentary committees

- 5.72 The audit committee often addressed internal audit and performance review processes in large government departments. Reporting of review and audit outcomes was typically made to senior management. Other respondents indicated that:

“A detailed internal audit program supervised by the audit committee involves the tracking on an electronic database of audit outcomes and recommendations with the responsible business manager. The performance planning and development system is used for periodic performance reviews of managers. Reports on performance are presented to the executive committee”

“Internal audits of the Department are undertaken by the internal audit bureau. The board of management has established a 5 year plan of rolling audits for its various units and for monitoring and implementation. The Department conducts a regular ‘climate survey’.”

“Internal audit and performance reviews are undertaken as part of the audit plan. The internal audit committee includes external representation. It takes action in regard to any problems identified through audit reports and performance review outcomes.”

Larger Government Departments - Stakeholders

- 5.73 The identification of stakeholders was done by the majority of larger government departments. The majority had also documented their responsibilities to stakeholders and established clear channels of

communication with their stakeholders. Legislation sometimes provided for the relationship to be established with stakeholders.

5.74 Legislation informed the understanding said to exist between most larger government departments and the relevant Minister. The roles and responsibilities of Ministers were said to be clearly defined and documented by most respondents and legislation was again offered as part of the reason for this. There was, however, a decrease in the confidence of respondents in the clear definition of roles and responsibilities of the Minister compared with other aspects of the relationship with the Minister. A clear process for responding to Ministerial directions was an area in which the confidence of respondents experienced a decrease.

5.75 The disclosure of concerns about illegal or unethical behaviour in larger government departments was addressed through the following:

“Whistle blowing policy and information given to staff at induction and every three years after that, an ethics information line, and a section of expert staff who address probity issues and provide in-house probity auditing services.”

“(agency name) has a telephone hotline for employees and public to report any concerns to the agency and this is managed by corruption prevention staff within internal audit. In addition info is provided to the audit and risk board committee on corruption prevention strategies. (agency name) provides monthly reports to the ICAC.”

5.76 All respondents indicated that they complied with the provisions of the *Protected Disclosures Act 1994* and that they had, based on the legislation, generated a policy on the making of protected disclosures.

Larger Government Departments - Organisation Culture

5.77 Matching corporate culture to values and strategies and ensuring that corporate actions are of the highest standard was reported to be fulfilled through:

“The budget process has been devolved to line managers, the qualification requirement for staff in client contact positions has been raised and ongoing effort is being made to implement current research and findings that may have an effect on behaviour.”

“The board of management, through its decisions and practices, leads the maintenance of the Department's corporate culture. It does so with input from staff through a variety of means including a regular "climate survey". The agency's culture is also reinforced through the Department's clear and public statements and its day-to-day practices.”

“The values expressed in the Nolan principles of public life have been instrumental in the development of organisational codes of conduct.”

- 5.78 Other common responses included: codes of conduct, recognition of achievements, consultation with staff and workshops and staff training.
- 5.79 Senior management of larger government departments indicated that they demonstrate their commitment to good governance largely by setting an example, being involved in policy development, and by encouraging feedback from staff.

Part B Responses from Governing and Advisory Boards and Committees

Governing and Advisory Boards

* This section was only applied to the 61 responses which came from boards and committees

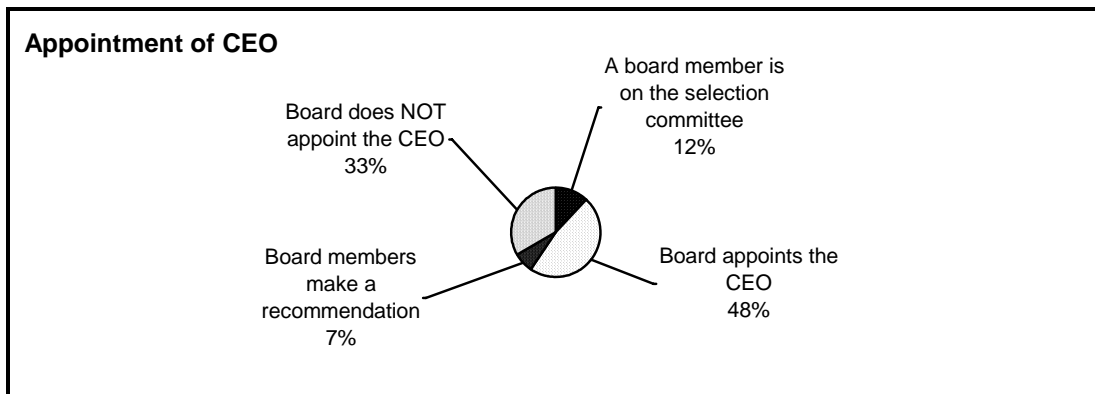
- 5.80 The table below indicates the percentage of boards and committees with the policies listed:

Policy Area	Appointment & Termination of Members	Membership Composition	Systems and Processes	Operational Standards	Board Performance	Board Reporting
% with policy	75%	77%	77%	75%	64%	75%

- 5.81 A clear mandate from the Minister on the board's role, powers, responsibilities and accountabilities did not exist for 7% of respondents with one respondent indicating other than a letter of appointment no documentation was given to board members by the Minister.
- 5.82 Authority to make decisions or recommendations on the composition of the board only existed for less than half of the respondents.
- 5.83 A total of 41% of respondents stated that the criteria for the appointment of board members is made public.
- 5.84 The evaluation of re-appointments taking into account the current and future needs of the Board was indicated as a process in place for 43% of respondents.
- 5.85 Boards and committees were asked if there was a policy of ensuring that board members have an appropriate skill mix. The percentage confirming policies for each of the skill areas are listed in the table below:

Skill	Operational and Technical Expertise	Financial	Legal	Knowledge of Government and Regulatory Requirements
% with a policy addressing that skill	48%	34%	36%	34%

- 5.86 In 64% of respondents the majority of board members were independent of both management, and where applicable, any commercial dealings of the agency.
- 5.87 The procedure for the meeting of non-executives separately from executive members and the chief executive officer was found to exist in 31% of responses.
- 5.88 The level and type of involvement of board members in the appointment of the Chief Executive Officer is summarised in the graph below:



- 5.89 Consultative arrangements were not common between the relevant minister with responsibility for the appointment of the Chief Executive Officer and the board. Boards and committees were not typically involved in the writing of a charter for the position of the Chief Executive Officer.
- 5.90 Close to three quarters of respondents were able to access an induction program and on going training on their obligations and liabilities.
- 5.91 The table below indicates the percentage of boards and committees who describe themselves as having a key role in the following activities:

Activity	Setting Strategic Direction of the Agency	Approving the objectives, strategies, budgets and performance measures and targets	Developing and Approving the Statement of Corporate Intent	Managing Business Risk	Monitoring Organisational Performance	Ensuring Compliance with Statutory and Policy Requirements	Managing Stakeholders
% involved in activities	70%	57%	57%	56%	57%	59%	64%

- 5.92 Over 85% of respondents indicated that they had policies covering operational issues like: the regularity of meetings, giving notice of meetings and requiring agenda items to be forwarded to members prior to meetings.
- 5.93 The vast majority (over 93%) of boards and committees have regular meetings and adequate access to information and expert advice.
- 5.94 Decision-making processes which are transparent and allow for sufficient discussions are present in the majority of boards and committees.
- 5.95 Reports are provided to boards and committees by management in the majority of circumstances and most respondents indicate that the reports are in a format which allows for a review of performance. One respondent indicated that:
- “The Council has a template for reports which covers key information required for any decision. The Council receives progress reports on strategic initiatives, KPI reports and financial performance reports.”
- 5.96 Direct access to senior management was common for boards and committees. Regular communication with the Minister was said by 69% of surveyed boards and committees to take place.
- 5.97 Supporting committees were in place for 64% of boards and committees. Of those which exist the majority consisted of non-executives, had a clear charter and a performance evaluation process.
- 5.98 Close to three quarters of respondents keep the Chief Executive Officer informed when advice and information is provided to the Minister by the board.
- 5.99 A code of conduct existed in 85% of boards and committees. This represents a marked increase from the figure of 36% of surveyed

boards in the NSW Audit Office Performance Audit Report on Corporate Governance.

- 5.100 A register of pecuniary interests and related party transactions was present in 62% of cases.
- 5.101 Less than half of surveyed boards and committees publicly disclosed details of fees paid to members.

Chapter Six - Treasury Managed Fund

6.1 The Treasury Managed Fund provides self insurance and other related services to several NSW government agencies. A summary of the functions of the scheme is provided by NSW Treasury:

“TMF's overall purpose is to provide structure and services that will assist Agencies in reducing the impact of risk exposures and maximise resources available to support their core business.

The NSW Government achieved its fiscal objective of full funding of the General Government sector's self-insurance scheme in 2003. The Treasury's managed fund's assets now exceed the fund's gross liabilities. Consequently, net assets of the Treasury Managed Fund were \$296 million (unaudited) as at 30 June 2003, compared with net liabilities of \$401 million as at 30 June 2002. This significant strengthening of the scheme's financial position was achieved because of an additional contribution of \$824 million by the Crown in 2002-03.

The scheme's outstanding claims are also now fully backed by liquid financial assets. Investment securities and cash (amounting to \$3,695 million) exceed the scheme's outstanding claims (amounting to \$3,666 million). The measure of the scheme's outstanding claims incorporate claims incurred but not yet reported.

The General Government sector's self-insurance scheme is expected to remain fully funded in the future provided that normal equity returns are achieved. Treasury Managed Fund's investment return was 4 per cent in 2002-03. The fund's assets are allocated to 60 percent bonds, 40 percent shares.

Cover is unlimited and applied to all insurance exposures. This insulates the New South Wales Budget from additional funding requests that were a feature of the previous unfunded arrangements. TMF performs a role similar to that of a 'Captive Insurer' to a large corporate.

TMF was established following a review of Government insurance arrangements in 1988. The review was prompted by rapidly increasing costs of insurances and/or losses. The review also came at a time when significant changes were being made to workers' compensation legislation, an audit commission had criticised existing arrangements, and perhaps most importantly when the Government was striving to improve Public Sector management generally.

The review found that the existing mixture of approaches was inadequate. There was no clear responsibility and accountability of individual managers for their claims experience and no incentive to reinforce a professional approach.

The Review Committee proposed the adoption of a systematic and coordinated approach to risk management and insurance, including the

adoption of a managed fund philosophy involving self-insurance for State entities, with the possibility of limited reinsurance. The major features of the approach are:

- Individual Departments have primary responsibility for identifying risks and developing strategies to address these in a cost-effective manner
- Premiums are set on a fully funded basis so that today's managers are responsible for today's costs
- Proper financial incentives are provided to motivate management
- A professional fund manager was appointed to manage the fund, providing claims management, insurance, information and some risk management services
- Incentive for the fund manager's performance is included in the manager's fee structure
- All General Government budget dependant entities were included in the fund while non-budget dependant entities had the choice of participation
- Risk management was, and remains, a high priority and
- Reinsurance is affected for individual losses above approved limits

From 1 July 1995 the TMF was restructured with a revised incentive scheme. Since then, funding for budget dependent agencies has been based on benchmark premiums, an industry-based best practice standard. Conversely, deposit premiums payable by agencies are influenced by claims experience.”³⁴

6.2 Since its inception in 1989 the scheme was exclusively managed by GIO insurance. In May 2005 three listed insurance companies were appointed to manage the fund: GIO General Limited, Employers Mutual Limited and Allianz Australia Insurance Limited. The Director of the Treasury Managed Fund stated that:

“The government was motivated to move to a multi-provider model for risk management reasons and to drive reforms and improvements among both agencies and providers.”³⁵

6.3 Three groups were created: workers compensation 1, 2, 3 under GIO, Employers Mutual Limited and Allianz respectively. Agencies were listed under one of the groups. Nine were listed with GIO. Seven were listed with Employers Mutual Limited. One Hundred and Nine were listed with Allianz.

³⁴ NSW Treasury website <http://www.treasury.nsw.gov.au/insure/tmf.htm> date accessed 14 March 2005

³⁵ ac3 July 2005 Newsletter http://www.ac3.com.au/newsletters/ac3_newsletter_2005_July.pdf

6.4 New arrangements with the Treasury Managed Fund mean that:

“A Data Warehouse is required to consolidate data from the claims managers to permit Treasury, agencies and the Actuarial and Information Services provider to complete their necessary analysis and reporting functions. The Data Warehouse will be established and introduced effective from July 2005.”³⁶

³⁶ NSW Treasury Website <http://www.treasury.nsw.gov.au/insure/new-arrangements.htm> date accessed 26 April 2006

Chapter Seven - Future Directions

- 7.1 Central agencies have a pivotal role to play in the development of a comprehensive corporate governance framework. The Committee supports central agencies taking an active role in the development of an overarching corporate governance framework, implementation strategy and monitoring regime.
- 7.2 Integral to achievement of optimal levels of transparency and accountability is an up to date framework which is geared towards broad, inclusive and agreed principles of corporate governance.

RECOMMENDATION 2: That central agencies, in consultation with all agencies, develop:

- a comprehensive corporate governance framework in line with best practice
- an implementation strategy to assist agencies, boards and committees with putting into effect the corporate governance strategy complete with a checklist
- a monitoring regime for reviewing compliance with the framework

- 7.3 The Committee found that a weakness of the current legislation is the fact that compliance with corporate governance principles is not mandatory. To reflect the importance of corporate governance and to assist in the monitoring of compliance it is the view of the Committee that making compliance with the revised framework a legislative requirement best addresses the current weakness and ensures future compliance.

RECOMMENDATION 3: That the *Public Finance and Audit Act 1983* be amended to incorporate those components of the revised corporate governance framework which are compulsory for agencies to comply with

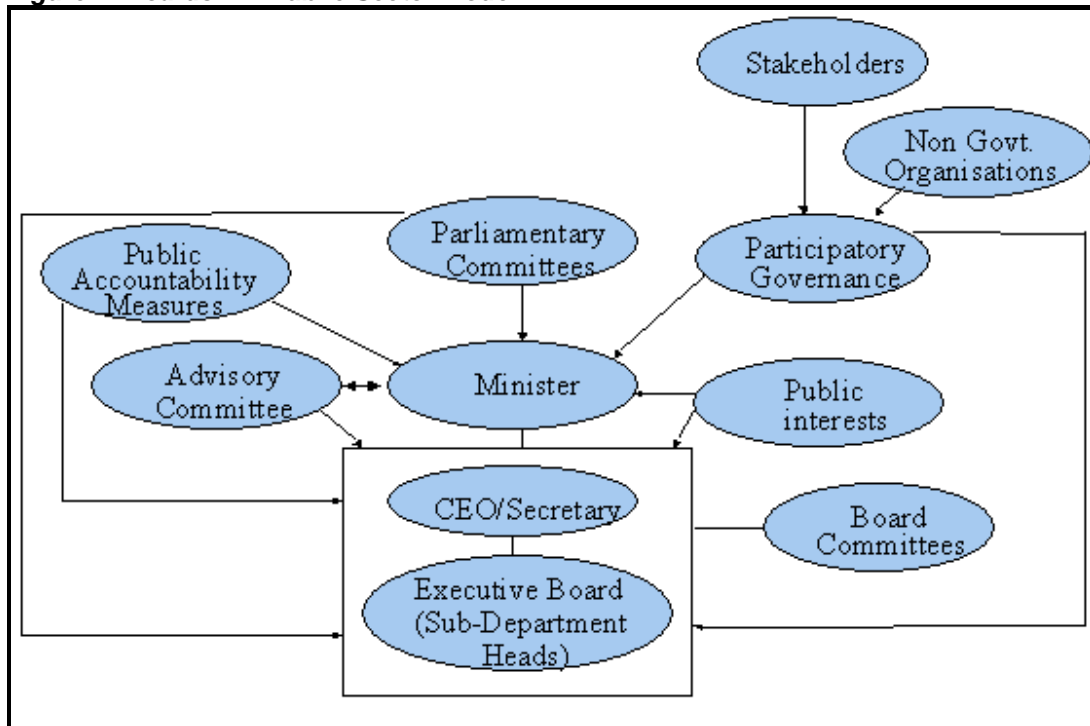
- 7.4 The Committee is of the view that while there is merit in selectively applying private sector corporate governance principles to the public sector, the future of corporate governance in the public sector must be responsive to the issues which have arisen in doing so.
- 7.5 One such issue is the clarity of lines of accountability between boards, chief executive officers and Ministers. This is acknowledged by the OECD in:

“...corporate governance difficulties derive from the fact that the accountability for the performance SOEs involves a complex chain of

agents (management, board, ownership entities, ministries, the government).³⁷

7.6 The diagram below developed by Professor Bryan Horrigan³⁸ illustrates the unique environment in which public sector boards operate:

Figure 4: Boards – A Public Sector Model



7.7 A comment from Pat Barrett AM, Auditor General for Australia illustrates the complicated relationships between key players in the public sector:

“In the public sector, quite complex relationships can exist between those with primary accountability responsibilities, especially the Parliament, Ministers, the Chief Executive Officer and boards. Consequently, there can be far greater management complexity in terms of stewardship, accountability and legislative requirements than is the norm in the private sector. In addition the public sector typically has more explicit and stringent value systems that emphasise legislative based notions of ethics and codes of conduct... Corporate governance is, therefore, often relatively more straightforward in the private sector as the roles and responsibilities are

³⁷ Organisation for Economic Cooperation and Development, 2005, OECD Guidelines on the Corporate Governance of State-Owned Enterprises, page 3

³⁸ How do Executive Boards for Public Sector Agencies differ from Corporate Boards? Canberra Bulletin of Public Administration Number 101 September, page 65

more clearly defined and generally involve a narrower range of active stakeholders and simpler objectives.”³⁹

- 7.8 Complex lines of accountability can create obstacles to effective governance. The absence of clear roles for both the board and the minister could be problematic. It is of benefit for there to be documented protocols in place that assist both parties in understanding the relationship that needs to exist between them. Feedback gained during the survey process suggests that this is the case:

“Early developmental work in governance highlighted the difficulties of "grafting" private sector governance elements onto a public sector framework. This difficulty was particularly characterised through the ambiguity that dominated the accountability relationships between the boards (CEO and Chair), the Director-General and the Minister.”

- 7.9 Accordingly the Committee has identified the need for better definition of and documentation of the respective roles and relationships described.

RECOMMENDATION 4: That the new corporate governance framework address the definition and documentation of the roles and relationships between boards, committees and Ministers

- 7.10 Regular performance reviews of boards and committees offer the important benefits of maintaining transparency, accountability and of creating opportunities to address issues and concerns arising in relation to corporate governance.
- 7.11 The NSW Audit Office performance audit: *Oversight of State Owned Electricity Corporations* found that while necessary on an annual basis, there was little evidence of board performance reviews being carried out.
- 7.12 “Few boards are yet attempting to appraise their own performance” according to the Western Australian Report on Public Sector Boards.⁴⁰
- 7.13 Recognition is made of the need to tailor the performance review process to the role of the board or committee. For example, while a governing board of a state owned corporation could expect a comprehensive review to be inclusive of their role in determining the strategic direction of the agency, an advisory committee could expect to be reviewed in relation to the quality of the advice it provided, as

³⁹ Expectation, and Perception of Better Practice Corporate Governance in the Public Sector from an Audit Perspective, Address by Pat Barrett, AM, Auditor General for Australia, CPA Australia’s Government Business Symposium, Melbourne 20 September 2002

⁴⁰ Western Australian Report Number 9 November 1998

indicated by current research and trends in the area and where appropriate consistency with the views of the groups it was selected to represent.

- 7.14 The Committee are of the view that requiring board and committee members to have their details appear on a registry of pecuniary interests is an effective corruption prevention technique and in the interests of transparency.

RECOMMENDATION 5: That all members of NSW public sector governing boards and committees who receive payment for their service should be required to declare their pecuniary interests and a register of these pecuniary interests should be kept by the board or committee chairperson

RECOMMENDATION 6: That the new corporate governance framework require that boards and committees undertake regular performance reviews and that consideration be given to a program of random performance reviews conducted by external bodies

- 7.15 The necessity for good stewardship and leadership of corporate governance in an agency is highlighted by the survey responses from public sector bodies. The survey found that there was a positive relationship between leadership commitment to and involvement in corporate governance and agency performance.

RECOMMENDATION 7: The Committee encourages the development of strategies aimed at improving corporate governance by heads of agencies and governing boards as a means of demonstrating commitment to good governance

- 7.16 Overwhelmingly, annual reporting was nominated by public sector bodies as their main accountability mechanism in the survey.
- 7.17 In 2006 the Public Bodies Review Committee and the Public Accounts Committee convened the Premier's Annual Reporting Award which involved the review of annual reports. Several notable omissions detracted from the quality of an otherwise good quality pool of reports.

RECOMMENDATION 8: That agencies be required to include in their annual reports:

- Achievement of key performance indicators
- A section on corporate governance including: policies and processes, improvements and planned initiatives for the coming year
- Compliance with public sector values, ethical standards and codes of conduct
- Details of the performance review of the CEO and governing board (where applicable)

- Overview of the internal audit program including details of the results and remedial action undertaken
- Reporting of the nature and success of communication and consultation with stakeholders
- Justification for the existence of all boards and committees

7.18 In the interests of transparency and accountability the Committee is of the view that the inclusion of strategic and annual business plans on public sector agency websites. The omission of such documents detracts from the disclosure by public sector agencies.

RECOMMENDATION 9: That all public sector agencies make available on their website their strategic and annual business plans

7.19 The Committee were especially interested in the issue raised in the original Audit Office guide to better practice entitled *On Board* of consideration of the degree to which the composition of boards and committees reflect the community.⁴¹

“... the extent to which the board’s membership should reflect the demography and views of the general community.”

7.20 A review of the 2005 annual reports of all state owned corporations in NSW was undertaken to identify the proportion of women serving governing boards in this sector. A total number of 153 positions belonged to the governing boards of the 21 state owned corporations in the state. Women held 38 or a quarter of the positions.

7.21 In 2005 the Office for Women report that women held 37% of all public sector wide board and committee positions. This figure is up 2% from the year 2002 indicating a relatively slow rate of progress.⁴²

7.22 While the proportion of the population which is female can justify an increase in the proportion of women on boards and committees it is also of interest to note that private sector boards with greater female representation were found to out perform those with a smaller female representation.⁴³ An application of such findings to the public sector suggests that increasing female representation on boards and committees could be seen as a means of improving performance.

⁴¹ NSW Audit Office, 1998, *On Board – Guide to Better Practice for Public Sector Governing and Advisory Boards*, page 11

⁴² Fact Sheet 3, *Women in Leadership Positions*, Office for Women, NSW Premier’s Department and Statistical Profile of Women in NSW September 2003, NSW Department for Women, page 22

⁴³ Catalyst, 2004, *The Bottom Line: Connecting Corporate Performance and Gender Diversity*

- 7.23 The representation of people from culturally and linguistically diverse backgrounds and indigenous people on boards and committees is an important aspect of diversity in decision making and advisory arms of government.
- 7.24 In the year 2000 the Ethnic Affairs Action Plan for the New South Wales Government makes reference to:⁴⁴
- “Participation on Decision Making Bodies
Increased participation by members of ethnic communities at all levels of Government decision making and on advisory and consultative bodies.”
- 7.25 Reference is also made in this document to annual reporting to the Premier of the performance of government agencies in relation to the representation of members of culturally and linguistically diverse communities.
- 7.26 The Committee understands that at present, government agencies report to the Community Relations Commission for a Multicultural New South Wales on whether or not they have representation from such groups but that exact numbers are unknown.
- 7.27 The NSW Premier's Department produces an internal quarterly statistical report on diversity in public sector boards and committees.
- 7.28 At present no information is regularly published and easily accessible on the representation of indigenous people, people from culturally and linguistically diverse backgrounds or on the representation of younger people and people with disabilities on boards and committees in the NSW public sector.
- 7.29 Public reporting of the degree to which the community is reflected in the composition of boards and committees enables effective monitoring of gaps and for under representation to be addressed.
- 7.30 The Committee is of the view that the diversity of board and committee members is an important area to monitor. The greater the diversity on boards and committees:
- The greater the contribution of boards and committees to the task of assisting public sector agencies in their servicing of the people of NSW
 - The richer the resource pool from within which public sector agencies can consult with representatives from the community

⁴⁴ NSW Government Ethnic Affairs Action Plan, page 45

- The more likely it is that boards and committees will detect and respond to issues relevant to the whole community

RECOMMENDATION 10: That the NSW Premier's Department include in their annual report the diversity of membership on public sector boards and committees including details of the number and percentage of women, people from culturally and linguistically diverse backgrounds, indigenous people, younger people and people with disabilities

RECOMMENDATION 11: That active measures be undertaken to ensure that where appropriate boards and committees are reflective of the community they operate in

7.31 It is the view of the Committee that a comprehensive review of all NSW public sector boards and committees should be undertaken to ensure that all operating boards and committees are still appropriate and relevant and to justify the costs associated with operating them.

RECOMMENDATION 12: That NSW Treasury consider requesting that all Ministers undertake a comprehensive review of all boards and committees in their portfolio to determine their ongoing relevance and to identify potential cost savings

Attachment One – Minutes

Minutes of Proceedings of the Public Bodies Review Committee
Wednesday 25 June 2003 at 4.30pm
Parliament House (Room 1043)

Members Present

Mr Milton Orkopoulos (Chair), Mr Alan Ashton, Mr Andrew Constance, Mr Wayne Merton
and
Mr Matthew Morris.

Apologies

Mr Rob Oakeshott

Consideration of Draft Minutes

Resolved on the motion of Mr Matthew Morris, seconded by Mr Wayne Merton,
that the minutes of the meeting of 28 May 2003 be adopted.

Inquiry Issues

The Committee deliberated on Terms of Reference –

Follow-up review of performance audit report on boards and committees.

Resolved on the motion of Mr Ashton seconded by Mr Merton that the following
Terms of Reference be adopted by the Committee:

- To conduct a follow-up review of the implementation of the recommendations contained in the Auditor-General's Performance Audit Report (1997): Volume One – Corporate Governance in principle and Volume Two – Corporate Governance in Practice and also the application of the Audit Office's "Guide Towards Better Practice in Public Sector Corporate Governance" by New South Wales Agencies.

To examine, as part of the follow-up review, the following specific matters:

- Whether the existing corporate governance frameworks and arrangements are appropriate and effective in view of the significant reforms which have transformed the Public Sector in recent years particularly in the areas of the delivery of government service;
- Whether the existing boards and committees add value to government and whether any further improvement and rationalisation are require;

- Whether the existing arrangements for monitoring and reporting on corporate governance issues and for assessing the performance of boards and committees are effective;
- What issues and problems are faced by agencies in implementing effective corporate governance arrangements;
- To review the appropriateness of risk management and incentives under the Treasury Managed Fund;
- Other related matters.

The Committee adjourned at 5.10pm.

Minutes of Proceedings of the Public Bodies Review Committee

Wednesday 17 September 2003 at 4.30pm

Parliament House – Room 1136

Members Present

Mr Milton Orkopoulos (Chair), Mr Alan Ashton, Mr Andrew Constance, Mr Wayne Merton, Mr Matthew Morris and Mr Rob Oakshott

Apologies:

Nil

Secretariat:

Catherine Watson, Jackie Ohlin, Keith Ferguson

Minutes of 3 September 2003

Resolved on the motion of Mr Morris, seconded by Mr Merton:

That the minutes of the meeting held on Wednesday 3 September 2003 be confirmed.

Briefing – Mr Tom Jambrich and Mr Steve Horne of the New South Wales Audit Office
Mr Tom Jambrich, Assistant Auditor-General (Performance Audit) Mr. Stephen Horne, Director Performance Audit provided a briefing on current Corporate Governance issues.

There being no further business, the meeting was closed at 5:25pm

Minutes of Proceedings of the PUBLIC BODIES REVIEW COMMITTEE

Thursday, 30 October 2003 at 10:00am

Parliament House

Members Present

Mr Milton Orkopoulos (Chairman)

Mr Alan Ashton

Mr Matthew Morris

Mr Andrew Constance

Mr Wayne Merton

Apologies: Mr Robert Oakeshott

In Attendance: Ms Catherine Watson (Committee Manager), Ms Jackie Ohlin (Project Officer), Ms Glendora Magno (Assistant Committee Officer)

The Chairman opened the meeting at 10.00am

PUBLIC HEARING

Mr Jack Cambourn, retired citizen and spokesperson for the residents of Chain Valley Bay, sworn and examined.

Mr Anthony Slevin, Barrister and friend of the citizens of Chain Valley Bay, sworn and examined.

Mr John Barrow, pensioner and spokesperson for the residents of Chain Valley Bay, sworn and examined

Evidence concluded, witnesses withdrew.

Mr Anthony Venn, retired citizen and resident of Colongra Point, sworn and examined.

Evidence concluded, witness withdrew.

Public Hearing closed at 12.50pm.

Minutes of Proceedings of the Public Bodies Review Committee

Wednesday, 12 November 2003 at 4pm

Parliament House

Members Present

Mr Milton Orkopoulos MP (Chairman), Mr Alan Ashton, Mr Andrew Constance, Mr Wayne Merton, Mr Matthew Morris, Mr Robert Oakeshott

Apologies

Nil

In Attendance

Ms Catherine Watson, Committee Manager, Ms Jackie Ohlin, Project Officer, Ms Glendora Magno, Assistant Committee Officer

Confirmation of Minutes

Resolved on the motion of Mr Morris, seconded Mr Constance that the Minutes of the Public Hearing held 30 October 2003 be accepted.

1. Briefing- NSW Premier's Department and Ministerial and Parliamentary Services

The Committee received a briefing from Mr Brad Fitzmaurice, Assistant Director-General, Ministerial and Parliamentary Services and Mr Emauel Sklavounous, Premier's Department concerning the Audit Office's 1997 performance audit report on corporate governance – issues arising from it and actions taken by the Premier's Department in response to it.

2. Proposed directions for the Follow-Up Review of Performance Audit on Corporate Governance

- a. The Committee agreed to write to the Cabinet Office requesting their attendance before the Committee to discuss the extent of follow-up actions taken by them on the Auditor-General's recommendations, in particular on applying the criteria for continuing Boards and Committees.
- b. Pursuant to this action, the Committee decided to seek from the Premier's Department a list of Boards, appointments and remuneration arrangements.
- c. The Committee agreed that when it meets with Wyong Council it would be worthwhile to explore issues for Councils concerning the Boards and Committees they administer and are responsible to.
- d. The Chairman advised that he will be meeting with Mr Matt Brown, Chairman of the Public Accounts Committee and respective Committee Managers to discuss possible shared inquiries.

The meeting concluded at 5pm.

Minutes of Proceedings of the Public Bodies Review Committee

Wednesday, 19 November 2003 at 10am

Parliament House

Members Present

Mr Milton Orkopoulos MP (Chairman), Mr Alan Ashton MP, Mr Matthew Morris MP, and

Mr Robert Oakeshott MP

Apologies

Mr Andrew Constance MP and Mr Wayne Merton MP

In Attendance

Ms Catherine Watson, Committee Manager, Ms Jackie Ohlin, Project Officer, and Ms Glendora Magno, Assistant Committee Officer

Public Hearing- Follow-up Review of Performance Audit Report on Corporate Governance

The Committee heard evidence from Mr Bob Butt, Director, Health and Development, Wyong Shire Council, sworn and examined.

Evidence concluded, the witness withdrew.

Meeting closed 10.45am.

Minutes of Proceedings of the Public Bodies Review Committee

Thursday, 20 November 2003 at 10am

Parliament House

Members Present

Mr Milton Orkopoulos MP (Chairman), Mr Alan Ashton MP, Mr Andrew Constance MP, Mr Wayne Merton MP, Mr Merton Morris MP

Apologies

Mr Robert Oakeshott

In Attendance

Ms Catherine Watson, Committee Manager; Ms Jackie Ohlin, Project Officer, Ms Glendora Magno, Assistant Committee Officer

Confirmation of Minutes

Resolved on the motion of MR Ashton, seconded Mr Oakeshott that the minutes of the meeting held 12 November 2003 be accepted. Carried.

1. Public Hearing

Follow-up Review of Performance Audit Report on Corporate Governance

The Committee heard evidence from Mr Bill Grant, CEO and Ms Tracey Bosnich, Manager Operations, Grants Division, Legal Aid Commission of NSW, sworn and examined.

Evidence concluded, the witnesses withdrew.

The meeting closed at 10.45am.

Minutes of Proceedings of the Public Bodies Review Committee

Thursday, 4 December 2003 at 10am

Jubilee Room, Parliament House

Members Present

Mr Milton Orkopoulos MP (Chairman), Mr Wayne Merton MP, Mr Matthew Morris MP, and

Mr Robert Oakeshott MP

In Attendance

Ms C Watson, Committee Manager; Ms G Magno, Assistant Committee Officer

Apologies

Mr A Constance MP and Mr A Ashton MP

1. Public Hearing- Follow-up Review of Performance Audit Report on Corporate Governance

The Committee heard evidence from Mr Alan Coutts, Director General/Chairman Dept Mineral Resources/Mine Subsidence Board and Mr Gregory Cole-Clark, Chief Executive Officer, Mine Subsidence Board, sworn and examined.

The witness withdrew.

Public hearing closed 11.45am.

Minutes of Proceedings of the Public Bodies Review Committee
Wednesday, 25 February 2004
at 4:30 pm in Room 1254

1. Members Present

*Mr Milton Orkopoulos MP (Chair), Mr Alan Ashton MP, Mr Andrew Constance MP,
Mr Wayne Merton MP and Mr Matthew Morris MP*

2. Apologies

Mr Robert Oakeshott MP

3. In attendance

Ms Catherine Watson, Committee Manager, Ms Jackie Ohlin, Project Officer,
Mr Jason Reodique, Committee Officer

4. Corporate Governance in Area Health Services

The Committee agreed to a proposal by Mr Constance to examine issues concerning the performance of the Southern Area Health Board as a part of the Committee's Follow-up Review of the Auditor-General's Performance Audit Report on Corporate Governance. The Committee agreed to invite Ms Robyn Kruk, Director-General, and the Deputy-Director General of Corporate Services, Department of Health, to attend a Public Hearing on 10 March 2004 to discuss corporate governance matters.

Meeting was adjourned at 5:00 pm.

Minutes of Proceedings of the Public Bodies Review Committee
Wednesday, 31 March 2004
10:00 pm in the Waratah Room

1. Members Present

*Mr Milton Orkopoulos MP (Chair), Mr Alan Ashton MP, Mr Andrew Constance MP,
Mr Wayne Merton MP, Mr Matthew Morris MP and Mr Robert Oakeshott MP*

2. Apologies

Nil

3. In attendance

Ms C. Watson, Committee Manager
Ms J. Ohlin, Project Officer
Mr K Ferguson Committee Officer
Ms G. Magno, Asst. Committee Officer

4. PUBLIC HEARING

Witnesses:

Ms Robyn Kruk, Director-General, NSW Health,
Mr Bob McGregor, Deputy Director-General, NSW Department of Health and
Mr Ken Barker, Chief Financial Officer, NSW Department of Health

Witnesses sworn, evidence given and witnesses withdrew.

Meeting was adjourned at 12.10pm.

Minutes of the Proceedings of the Public Bodies Review Committee

Thursday 7 April 2005

At 12noon, Room 1108, Parliament House

1. Members Present

Mr Milton Orkopoulos MP (Chair), Mr Alan Ashton MP, Mr Wayne Merton,
Mr Matthew Morris MP, Mr Robert Oakeshott MP

2. In attendance

Ms C. Watson, Committee Manager
Ms S. Ngui, Committee Officer
Ms G. Magno, Assistant Committee Officer

3. Briefing from Mr John Chan-Sew

Mr Orkopoulos MP welcomed Mr Chan-Sew to the meeting. Mr Chan-Sew provided an overview of the questionnaire for the Corporate Governance inquiry.

4. General Business

Resolved on the motion of Mr Morris and seconded by Mr Oakeshott that secretariat of the Committee be authorised to distribute the covering letter, questionnaire and terms of reference of the Corporate Governance Inquiry.

5. Other Business

There being no further business, the meeting was adjourned at 1.20pm

Minutes of the Proceedings of the Public Bodies Review Committee

Wednesday 4 May 2005

At 4.30pm, Room 1254, Parliament House

1. Members Present

Mr Milton Orkopoulos MP (Chair), Mr Wayne Merton MP, Mr Matthew Morris MP, Mr Andrew Constance MP, Mr Alan Ashton MP

2. In attendance

Ms C. Watson, Committee Manager

Ms S. Ngui, Committee Officer

3. Briefing from Mr Philip Higginson, PRO: NED Board and Executive Search Consultants

Mr Orkopoulos (Chair) welcomed Mr Higginson and Mr Michael Hadaway from PRO: NED to the meeting.

Mr Higginson provided the Committee with a briefing on the competence and effectiveness of all government boards especially as it relates to the appointment of non-executive board members.

4. Other Business

There being no further business, the meeting was adjourned at 5.50pm

Minutes of the Proceedings of the Public Bodies Review Committee

Tuesday 7 June 2005

4.30pm, Room 1254, Parliament House

1. Members Present

Mr Milton Orkopoulos MP (Chair), Mr Matthew Morris MP, Mr Andrew Constance MP,

Mr Alan Ashton MP, Mr Robert Oakeshott MP

2. In attendance

Ms C. Watson, Committee Manager
Ms S. Ngui, Committee Officer
Ms G Magno, Assistant Committee Officer

3. Apologies

Mr Wayne Merton MP

4. Briefing from Dr Greg Keogh and Dr Brett Oliver of the Postgraduate Medical Council of New South Wales

Mr Orkopoulos (Chair) welcomed Dr Keogh and Dr Oliver to the meeting. Dr Keogh and Dr Oliver provided the Committee with details about the work of the Postgraduate Medical Council and in particular the work of the Workforce and Allocation Committee of the Council. Reference was made to a review of the Workforce and Allocation Committee by the New South Wales Department of Health. Dr Keogh and Dr Oliver agreed to return in twelve months to update the Committee as to the outcomes of the review.

5. Other Business

There being no further business, the meeting was adjourned at 5.40pm

Minutes of the Proceedings of the Public Bodies Review Committee No.17

Wednesday 12 October 2005

4:30pm, Room 1043, Parliament House

1. Members Present

Mr Matthew Morris MP (Chair), Mr Alan Ashton MP, Mr Barry Collier MP, Mr Andrew Constance MP, Mr Wayne Merton MP, Mr Robert Oakeshott MP

2. In Attendance

Ms C. Watson, Committee Manager
Ms S. Ngui, Senior Committee Officer
Ms B. Groves, Committee Officer

3. Apologies

Nil.

4. Follow Up Review of Performance Audit Report on Corporate Governance

Mr Morris (Chair) informed the Committee that follow up notices have been sent for outstanding surveys.

Members agreed that a report covering the progress to-date on three issues: Mine Subsidence in Chain Valley Bay; Southern Area Health Service and the

Postgraduate Medical Council) should be drafted and presented to Parliament for their information.

Members also agreed that a letter should be drafted and sent to the Postgraduate Medical Council to inform them when the report has been tabled in Parliament, and that the Committee will seek to revisit the issue in 6 months time (12 months from the original meeting with the Council).

There being no further business, the meeting was adjourned at 6:00pm.

Minutes of the Proceedings of the Public Bodies Review Committee

Wednesday 16 November 2005
5:00pm, Room 1108, Parliament House

1. Members Present

Mr Matthew Morris MP (Chair), Mr Alan Ashton MP, Mr Barry Collier MP, Mr Andrew Constance MP, Mr Wayne Merton MP, Mr Robert Oakeshott MP

2. In Attendance

Ms C. Watson, Committee Manager
Ms S. Ngui, Senior Committee Officer
Ms B. Groves, Committee Officer

3. Apologies

Nil.

4. Corporate Governance- Consideration of Issues Arising Report

Resolved on the motion of Mr Oakeshott, seconded by Mr Merton, that a letter be drafted to the Postgraduate Medical Council confirming that a response from the Council is expected in six months time.

Resolved on the motion of Mr Constance, seconded by Mr Collier, that an additional recommendation be added to the Report proposing that the NSW Audit Office conduct a performance audit on the Greater Southern Area Health Service.

Resolved on the motion of Mr Ashton, seconded by Mr Merton, that the draft Report be accepted, with amendments.

There being no further business, the meeting was adjourned at 6:00pm.
