



NSW Government response to the Public Accounts Committee's Report on the Quadrennial Review of the Audit Office 2022

Recommendation	Government response
Recommendations of the PAC Report	
<p>Recommendation 1 The Committee recommends that the Government implement recommendations one and five made in the Statutory Quadrennial Review of the Audit Office of New South Wales Final Report.</p>	<p>Accepted in part The NSW Government has responded to the recommendations of the Quadrennial Review Report as set out below.</p>
<p>Recommendation 2 The Committee recommends that the Treasurer amend section 48A of the <i>Government Sector Audit Act 1983</i> to provide that the report of a review of the Audit Office under that section be provided directly to the Public Accounts Committee by the appointed reviewer on completion of the report.</p>	<p>Accepted The Government will introduce legislation to the Parliament to amend section 48A of the <i>Government Sector Audit Act 1983 (GSA Act)</i> to provide that reviews of the Audit Office under that section are to be provided directly to the Public Accounts Committee (PAC) by the appointed reviewer.</p> <p>The Government will also propose amendments to the GSA Act to provide that the reviewer is required to consult with entities audited by the Audit Office in conducting the review. This will allow the reviewer to collect feedback on the Audit Office's performance directly from those entities that have been audited by the Audit Office within the relevant period.</p>
Recommendations of the Quadrennial Review Report	
<p>Recommendation 1 In order to ensure that the legislation pertaining to independence of the Auditor-General is up-to date, meets the needs of the changing auditing environment, recognises the evolution in how government delivers services to citizens, and is in keeping with that of other Australasian Audit Offices, it is recommended that the PAC engages with the Parliament and relevant stakeholders to examine the current legislative provisions in order to:</p>	<p>The Government has recently instituted significant reforms to the funding arrangements for the integrity agencies in NSW. The reforms strengthen the transparency of budgetary arrangements and safeguard the independence of the integrity agencies.</p> <p>That work has been delivered in response to the Legislative Council's Public Accountability Committee Report No. 7 entitled <i>Budget process for independent oversight bodies and the Parliament of New South Wales Final Report</i>, and the Auditor-General's October 2020 report entitled <i>The effectiveness of the financial arrangements and management practices in four integrity agencies</i>. The Government response was tabled on 9 May 2022.</p> <p>The revised funding model will be implemented for the NSW Budget 2022-23 moving forward and includes that:</p> <ul style="list-style-type: none"> • The Audit Office of NSW, Independent Commission Against Corruption, Law Enforcement Conduct Commission, NSW Electoral Commission, and the

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	<p>NSW Ombudsman (collectively, integrity agencies) will be removed from Premier and Cabinet cluster financial management processes.</p> <ul style="list-style-type: none"> • Efficiency dividends will not be imposed on integrity agencies. • A specialist integrity agency unit will be established within Treasury to manage representations for budget and supplementary funding and provide the integrity agencies with information on funding outcomes. • Integrity agencies will be invited to review Treasury's advice to the Expenditure Review Committee of Cabinet (ERC) on integrity agency funding bids and provide their own advice directly to ERC. • The integrity agencies, and the relevant Parliamentary oversight committees, will be provided with funding decisions in writing, and, if relevant, reasons for variation from a funding bid, to enhance transparency in decision making. • Annual Appropriation Acts will include contingency funding for the integrity agencies, in addition to appropriations for the ordinary services of the integrity agencies. Expenditure of contingency funds may be approved by the Treasurer on request, with the request and response also provided to the relevant Parliamentary oversight committee. <p>A Treasurer's Direction, drafted in consultation with the integrity agencies, will be issued codifying the new arrangements.</p> <p>All requests for funding submitted by the integrity agencies were included by the Government as part of the NSW Budget 2022-23.</p>

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<p>Recommendation 1, paragraph 1</p> <ul style="list-style-type: none"> improve the financial autonomy of the Auditor-General by providing for the Parliament to be involved in determining the adequacy of the Auditor-General's budget, 	<p>Accepted in principle</p> <p>The Government will introduce legislation to the Parliament to clarify that the PAC has the function of examining each annual and other report of the Audit Office.</p> <p>The PAC is constituted under section 54 of the GSA Act and comprises 6 members of the Legislative Assembly who are not Ministers of the Crown or Parliamentary Secretaries. Those 6 members are required to be appointed as members as soon as practicable after the commencement of the first session of each Parliament and are to be appointed in accordance with the practice regarding the appointment of members to serve on select committees of the Assembly.</p> <p>Other statutory oversight committees, such as the Committee on the Independent Commission Against Corruption and the Committee on the Ombudsman, the Law Enforcement Conduct Commission and the Crime Commission have an explicit function of scrutinising the funding and operations of the oversight bodies in reviewing the oversight bodies annual reports (see section 64(1)(c) of the <i>Independent Commission Against Corruption Act 1988</i> and section 31B(1)(c) of the <i>Ombudsman Act 1974</i>). The Government considers that conferring a similar function on the PAC in respect of the Audit Office, and the PAC conducting an annual inquiry as the other committees do, would further strengthen the role of the Parliament and PAC in overseeing the Auditor-General.</p> <p>The PAC is also now advised of funding decisions in writing, and, if relevant, reasons for variation from a funding bid, in relation to the Audit Office to enhance transparency in decision-making.</p> <p>However, the Government does not consider it appropriate to provide the Parliament, or any parliamentary committee, with a role in considering or advising on the funding proposed to be allocated to the Audit Office prior to a decision being made by the executive government of the day. This is to preserve the fundamental principles of Cabinet confidentiality and responsible government.</p>
<p>Recommendation 1, paragraph 2</p> <ul style="list-style-type: none"> designate the Auditor-General as an Officer of the Parliament, 	<p>Accepted</p> <p>The NSW Government will introduce legislation to the Parliament to establish that the Auditor-General is an independent officer of the Parliament.</p>

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<p>Recommendation 1, paragraph 3</p> <ul style="list-style-type: none"> remove the restriction in legislation that states that the Auditor-General is not entitled to access certain information, in particular cabinet documents and documents subject to legal professional privilege (section 36(8) and clause 36(6)(b) of the <i>Government Sector Audit Act 1983</i>). 	<p>Accepted</p> <p>The NSW Government will introduce legislation to the Parliament with the effect that the Auditor-General is not prevented from accessing Cabinet information or information that is subject to a privilege claim based on legal professional privilege (LPP).</p> <p>Consistent with practice in other Australian jurisdictions, while access to this information will be available to the Auditor-General, the Government will establish a statutory regime to ensure that this confidential material is kept confidential and not published by the Auditor-General.</p> <p>The legislation will establish a system where the Premier can issue a certificate that information is Cabinet information, with such a certificate to be conclusive of that fact. This is consistent with similar provisions in existing NSW legislation and the Auditor-General's new role as an officer of Parliament.</p> <p>Several other jurisdictions have prohibitions in legislation on the publication of Cabinet information, including the Commonwealth (see section 37 of the <i>Auditor-General Act 1997</i> (Cth), section 20 of the <i>Auditor-General Act 1996</i> (ACT) and section 30A of the <i>Audit Act 2008</i> (TAS).</p>
<p>Recommendation 1, paragraph 4</p> <ul style="list-style-type: none"> allow the Auditor-General to conduct performance audits of third party providers of government services (follow the dollar powers), 	<p>Accepted</p> <p>The Government has introduced the Government Sector Audit and Other Legislation Amendment Bill 2022 to the Parliament to establish "follow the dollar" audit functions, which will allow performance audits of the activities of third party providers.</p>

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<p>Recommendation 1, paragraph 5</p> <ul style="list-style-type: none"> provide for the Auditor-General not to be subject to direction of anyone on 'what to audit', and 	<p>Not accepted</p> <p>Section 27B(3)(b) and (c) of the GSA Act provide that the Auditor-General's functions include providing any particular audit or audit-related service to the Parliament at the joint request of both Houses of Parliament, or to the Treasurer, or any other Minister. These are referred to in the report as "request audits".</p> <p>This section was inserted into the GSA Act by the <i>Public Finance and Audit Amendment (Auditor-General) Bill 2001</i> and, as noted in the Second Reading speech for that Bill, these functions are 'particularly useful where the audit or audit-related services are not covered by the Auditor-General's specific audit powers'.</p> <p>The Quadrennial Review Report states that in 2020-21 there were three requested audits conducted. The NSW Government notes that the number of requested audits under section 27B has been low, with one requested in 2020-21, two in 2019-20 and one each year in 2018-19 and 2017-18. It also notes that the Auditor-General has discretion as to how to conduct such audits and their timing.</p> <p>The Government does not accept that the capacity for the Parliament, the Treasurer or a Minister to request an audit undermines or is inconsistent with the independence of the Auditor-General. The capacity to request or refer matters is a standard feature of the jurisdiction of integrity agencies in NSW.</p> <p>However, the Government considers that, to appropriately safeguard the independent of the Auditor-General that the GSA Act should be amended to introduce a requirement for the Parliament, Treasurer or a Minister to consult with the Auditor-General as to the scope of any particular audit or audit-related services before requesting that particular audit or services.</p>
<p>Recommendation 1, paragraph 6</p> <ul style="list-style-type: none"> increase the Auditor-General's mandate to audit entity nonfinancial performance measures and the NSW budget. 	<p>Not accepted</p> <p>Division 2A of Part 3 of the GSA Act provides for the Auditor-General to perform audits of non-financial performance measures through the existing performance audit process.</p>

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<p>Recommendation 2 The Audit Office, work with Government to ensure appropriate funding for:</p> <ul style="list-style-type: none"> • activities required to deliver on the emerging issues and innovation required to maintain a contemporary audit practice, and • incidental costs, not recovered by audit fees, across all audit sectors. <p>This is related to Recommendation 3.</p>	<p>Not directed to the Government</p>
<p>Recommendation 3 In implementing the Data Analytics Strategy, the Audit Office should ensure there is adequate resources allocated to reduce the risk of the initiatives and strategic objectives of the Strategy not being achieved. This is related to Recommendation 2.</p>	<p>Not directed to the Government</p>
<p>Recommendation 4 The Audit Office, as part of its long-term stakeholder engagement plan, should:</p> <ul style="list-style-type: none"> • continue to engage with stakeholders on how they view value including but not limited to audit fees, and • provide further detail to financial statement auditees, including where there are significant changes, as to why the quantum of audit hours/fees and that level of auditing is required. 	<p>Not directed to the Government</p>



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<p>Recommendation 5</p> <p>In order to provide assurance to the Parliament, it is recommended that the PAC engages with the Parliament and relevant stakeholders to provide for the Audit Office to conduct an independent annual review of the NSW Budget.</p>	<p>Not accepted</p> <p>There are existing sector wide policies and processes that ensure that the NSW Budget is prepared in accordance with applicable accounting standards.</p> <p>This includes that the Auditor-General currently has the function of auditing the Consolidated State Financial Statements under section 27B(3)(a) of the GSA Act.</p> <p>Carrying out a separate annual, prospective review of the Budget could place a material risk to the timetable for completion of the Budget and its presentation to Parliament, with unclear benefits to the Parliament, the PAC and the public beyond existing financial controls.</p> <p>The Budget is a whole-of-government consolidation and statement of the Government's policy across all portfolio areas. Section 27B(6) of the GSA Act makes clear that nothing in that Act entitles the Auditor-General to question the merits of policy objectives of the Government, including—</p> <ul style="list-style-type: none">(a) any policy objective of the Government contained in a record of a policy decision of Cabinet, and(b) a policy direction of a Minister, and(c) a policy statement in any Budget Paper or other document evidencing a policy direction of the Cabinet or a Minister. <p>It is noted that the existing powers of the Audit Office to carry out performance audits under Division 2A of Part 3 of the GSA Act could be used to review of the Budget process, including the involvement of any particular agency in the preparation of the Budget. The Audit Office Planned Audits to 2023-24 to 2024-25 includes an Outcome Budgeting review, illustrating the degree of oversight of existing processes and methodologies that can be achieved making use of the powers and functions current conferred under the GSA Act.</p>