



RESEARCH NOTE

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The Independence of the Auditor-General

Introduction

The work of the Auditor-General provides a critical link in the chain of accountability from the Executive to Parliament.

This Research Note provides a brief introduction to the work of the Auditor-General, and outlines some key issues of independence.

The role and powers of the Auditor-General

The Statutory Office of Commonwealth Auditor-General was created in 1901. The Auditor-General provides an independent view of the performance and financial management of public sector agencies and bodies. He or she is assisted by the Australian National Audit Office (ANAO). The ANAO's 257 staff (as at 30 June 2000) are employed under the *Public Service Act 1999*.

The powers of the Auditor-General are mostly specified in the *Auditor-General Act 1997*.

The Auditor-General is empowered to audit all Commonwealth agencies, authorities, companies and subsidiaries, with the exception of performance audits of Government Business Enterprises (GBEs) and of persons employed under the *Members of Parliament (Staff) Act 1984*. However performance audits of wholly owned GBEs may be undertaken at the request of the responsible Minister, the Finance Minister or the Joint Committee of Public Accounts and Audit (JCPAA). The Auditor-General can access Commonwealth premises to examine documents.

Increasingly, private sector organisations are contracted to provide services to, or on behalf of, government. In these cases, the Auditor-General will only have access to private premises if an access clause has been included in the contract. The ANAO has argued that such clauses are not routinely included.¹

The JCPAA has restated its recommendation that the Auditor-General be given access.²

The Auditor-General prepares:

- performance audits (evaluation of the economy, efficiency and effectiveness of the management of public sector entities)
- financial statement audits (independent examination of the financial accounting and reporting of public sector entities), and
- Better Practice Guides (guides outlining good procedures used in agencies).

The current Auditor-General is Mr Pat Barrett AM.

The independence of the Auditor-General

In October 1996 the Joint Committee of Public Accounts (JCPA) outlined its view of the preconditions for the functional independence of the Auditor-General. These were:

- personal independence in relation to appointment and tenure
- a wide legislative mandate empowering the Auditor-General to audit the complete spectrum of Commonwealth functions
- audit independence, including freedom to determine the audit programme, and to decide the nature and scope of audits to be conducted
- unrestricted access to information in performance of the audit function together with the right to report any findings to Parliament, and
- adequate resourcing to fulfil audit functions effectively.³

The Committee argued that the independence of the Auditor-General should be strengthened, recommending:

- enshrinement of the Auditor-General as an independent officer of the Parliament, and a

clear statement of his/her independence

- effective oversight of the Auditor-General's operations by an Audit Committee of the Parliament (in order to make transparent the administrative relationship between the Auditor-General and the Executive), and
- an extension of the Auditor-General's statutory rights and powers.⁴

The *Auditor-General Act 1997*⁵ enhanced the independence of the Auditor-General. For example:

- the Auditor-General is an Independent Officer of the Parliament and is not subject to direction from anyone regarding the conduct of audits (s. 8), and
- the JCPA was reconstituted as the JCPAA, whose approval must be received before a new Auditor-General is appointed (Schedule 1).

Further, the *Public Accounts and Audit Committee Act 1951* authorises the JCPAA to make recommendations regarding the draft estimates for the ANAO (s. 8). Although the JCPAA is a Government-majority committee, its membership includes parliamentarians from the Opposition and the Australian Democrats.

JCPA recommendations *not* adopted in the legislation include:

- access by the Auditor-General to the premises of contractors to government
- a restriction on subsequent appointment to public office
- remuneration linked to that of departmental secretaries
- capacity to disclose sensitive information, and
- discretion to conduct performance audits of GBEs.

Some issues raised by the Auditor-General

A large number of governance issues are discussed in the ANAO's

performance audit reports each year. The following examples were highlighted by Mr Barrett in the ANAO's *Annual Report 1998–99* and *Annual Report 1999–2000*:

- the importance of effective contract management and accountability mechanisms in the context of outsourced service delivery (1998–99, pp. 2–4)
- the adequacy of performance information under the outputs–outcomes framework (1999–2000, p. 2)
- the governance challenges presented by increased partnering and networking of public and/or private sector organisations (1999–2000, pp. 3–5), and
- the importance of effective control structures in preventing fraud (1999–2000, pp. 5–6).

Among the ANAO reports that have captured public attention are the 1993 report into the administration of sports grants and the 2000 report into the outsourcing of government information technology services.⁶

Each of the States and Territories has its own Auditor-General, who operates under the legislation of that State or Territory. Notable reports by State or Territory Auditors-General include:

- a report by the Australian Capital Territory (ACT) Auditor-General outlining concerns with aspects of the redevelopment of Bruce Stadium,⁷ and

- a report by the Victorian Auditor-General outlining concerns about the tendering process for that State's metropolitan ambulance service.⁸

The re-emergence of independence—the case of Victoria

Events in Victoria demonstrate the political sensitivity of the independence of the Auditor-General.

In 1997, the Victorian Government legislated to transfer the majority of the Auditor-General's staff to a proposed organisation, Audit Victoria, that would be privatised within two years. More audits would be conducted by the private sector, with the Auditor-General losing discretion over the operation of such audits.

Considerable controversy followed, with the changes viewed by many as an attempt to weaken the independence of the Auditor-General.⁹ They were strenuously opposed by the then Victorian Auditor-General, Mr Ches Baragwanath.¹⁰ Peter McLellan, a Government parliamentarian, abstained from voting for the changes.¹¹

With the Opposition's support, the Bracks Government restored (and extended) the independence of the Auditor-General,¹² amidst allegations that the 1997 initiative

had failed on both ethical and efficiency grounds.¹³

Conclusion

Clearly there is some disagreement as to the optimal level of independence for the Auditor-General. However, discussion in academic journals, Parliament and the media demonstrates that both the work and the independence of the Auditor-General are highly valued as a means of enhancing the accountability of the Executive.

Rose Verspaandonk Politics and Public Administration Group Information and Research Services

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1. For example, an examination of 35 contracts across eight agencies revealed that only two referred to possible access by the Auditor-General (Submission by the ANAO to the JCPAA inquiry into Contract Management in the Australian Public Service).
2. See JCPAA, *Report 379: Contract Management in the Australian Public Service* for discussion of this issue. The recommendation was also made in the JCPAA's *Report 368*.
3. JCPA, *Report 346: Guarding the Independence of the Auditor-General*, AGPS, Canberra, 1996, p. 10. Another influential report by the JCPA was *Report 296: The Auditor-General: Ally of the People and Parliament*.
4. *ibid.*, p. 59.
5. The 1997 legislation is similar to the Keating Government's Auditor-General Bill 1994, which was not passed before Parliament was prorogued for the March 1996 election.
6. Commonwealth Auditor-General, *Community Cultural, Recreation and Sporting Facilities Program, Report No. 9, 1993–94* and Commonwealth Auditor-General, *Implementation of Whole-of-Government Information Technology Infrastructure Consolidation and Outsourcing Initiative, Report No. 9, 2000–01*.
7. ACT Auditor-General, *Reports of the Performance Audit of the Redevelopment of Bruce Stadium*, 2000.
8. Victorian Auditor-General, *Metropolitan Ambulance Service: Contractual and Outsourcing Practices, Special Report No. 49*, 1997.
9. For example, Sushila Das, 'Plan for auditor flawed say CPAs', *The Age*, 2 August 1997 and Karina Barrymore, 'Watchdog was ready to growl at Kennett', *Australian Financial Review*, 21 July 2000.
10. John Waugh, 'The Kennett Government and the Constitution: No Change?' in Brian Costar and Nicholas Economou, eds, *The Kennett Revolution: Victorian Politics in the 1990s*, UNSW Press, Sydney, 1999, p. 61.
11. Damon Johnston, 'MP in vote protest', *Herald Sun*, 21 November 1997.
12. *Audit (Amendment) Act 1999* (Vic).
13. For example, Ewin Hannan, 'Audit changes attacked', *The Age*, 31 May 2000.