Governance:

The ANAO's Contribution to

Making it Happen

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The Australian National Audit Office — Governance: the Way to Making it Happen

Introduction

Thank you for the invitation to address the Queensland Regional Heads Forum on *'Governance: the Way to Making it Happen'*.

I was very pleased to accept this invitation because in my time with the Department of Finance in the early 1990s I was responsible for the department's regional and overseas offices, amongst other things. I recall the key role that regional forums played in those days, particularly with the dissemination of information on the significant changes that were then occurring in public sector management.

I am conscious, also, that many federal government programmes are delivered through APS state and regional offices — indeed around 65% of APS employees are located outside Canberra with some 16,200 ongoing staff (or 12%), here in Queensland.

The business of government is necessarily diverse, changing, and of considerable scale. We in the ANAO are fortunate that our mandate allows us to see the very significant range of functions undertaken and services delivered in the Australian Government public sector. While there are many differences in the roles organisations in the public sector discharge, there is also much in common in their organisational form and characteristics.

Departments and agencies (hereinafter referred to as 'agencies') operate within a common administration framework, comprising legislation and government policies, and adhere to a common set of public sector values. There is also a collegiate approach among agencies, and in the main this extends to the wider Australian Government public sector family (including statutory authorities and companies).

As you would expect, governance in the public sector has changed over the years to reflect both developments in the legislation and policies affecting public sector administration, and trends in corporate governance more broadly.

In my presentation today I plan to:

- mention the more significant developments that have influenced public sector management and governance in more recent years; and

- highlight those aspects of governance that might be given particular attention, drawing as appropriate on the audit reports of the ANAO.

Developments in public sector management and governance

The role of public sector agencies is largely defined by the:

- Administrative Arrangement Order which sets out the legislation to be administered by responsible Ministers (and agencies);
- *Financial Management and Accountability Act 1997*;
- *Public Service Act 1999; and*
- *Workplace Relations Act 1996,* which sets the framework for employment conditions, ie: local workplace agreements and AWAs.

Chief Executives (CEs) of public sector agencies today have more authority than ever before in shaping the administration of their agencies to deliver government programmes consistent with legislative and policy requirements. It is also important to add that CEs now carry more personal responsibility than ever before for agency performance.

It is worthwhile to reflect on why these changes to public sector management have come about, but more importantly what it means for agency governance.

The focus of the public sector management reforms has been to eliminate unnecessary rigidity in public administration and allow agencies the flexibility to tailor solutions to particular programmes. Legislation and government policy probably intrude less on day-to-day public administration than they did a decade ago if you take into account the more principles-based legislation now in place and the easing of some policy requirements directly affecting public administration (eg: in relation to IT outsourcing). It is not clear, though, that the same could be said for subsidiary legislation which imposes the more detailed requirements on agencies. The current focus on reducing 'red tape' [1] (without undermining public accountability) is directed to reducing unnecessarily burdensome and prescriptive administration requirements. That said, though, the legislative and policy framework is always susceptible to change, particularly if performance issues are evident – the pendulum of reform can swing both ways. There is, however, an intention to be more analytical in considering options before resorting to red tape.[2]

The other change we have seen in recent years is a more collaborative approach to public administration, underwritten by a reinvigorated Management Advisory Committee, but also necessitated by the need for more global solutions to policy issues. Business and the wider community reasonably expects that government programmes and services will be delivered, increasingly, in a seamless way; and this includes cross-government or jurisdictional boundaries.

The Management Advisory Committee issued a significant report in 2004 on *Connecting Government Whole of Government Responses to Australia's Priority Challenges* which indicated that:

> *'Achieving greater co-ordination in policy advice and programme service delivery is a high priority of public administration in Australia. [3]'*

The name given to describe this priority in Australia is 'whole of government', denoting:

> *'... public service agencies working across portfolio boundaries to achieve a shared goal and an integrated government response to particular issues. Approaches can be formal and informal. They can focus on policy development, program management and service delivery.'[4]*

The benefits of whole of government intervention include:

- Emphasising 'big picture' strategic directions not captured by individual portfolio objectives;
- Providing improved client focus;
- Providing a framework to resolve conflicts and generate trade-offs.

However, like all organisational arrangements, there can be negative effects unless they are compensated for. Challenges in whole of government arrangements may include:

- Lack of clear leadership
- Blurred lines of accountability;
- Difficulties in measuring overall effectiveness and impact;
- Transitional costs and some level of duplication in ongoing administrative costs.

It is unlikely, though, that whole of government arrangements will be sustained for any length of time through virtual organisations, ie: agencies coming together to respond to a particular policy imperative. While whole of government approaches are necessary to meet more complex policy challenges that cut across current portfolio arrangements, if the response is to be delivered on a 'permanent' basis at the federal level of government, then it is likely that we will see more permanent organisational arrangements put in place to provide the leadership and global focus on performance and accountability. We should not lose sight of the real benefits that traditional organisation structures deliver in terms of governance, accountability and the coherent and efficient delivery of services, and the extent of co-operation and coordination that currently occurs between and among agencies.

In this context, it is worth remembering that John Uhrig found that for several of the authorities considered as part of his review of corporate governance of statutory bodies and office holders[5], there was a lack of effective governance due to a range of factors, including 'unclear boundaries in their delegation, a lack of clarity in their relationships with Ministers and portfolio departments, and a lack of accountability for the exercise of their power.[6] These are also matters to be considered in relation to whole of government opportunities.

The Management Advisory Committee report on *Connecting Government* [7] indicated that:

> *'A strong message from the literature and case studies analysed for this report is that whole of government approaches to complex problems should only be undertaken when necessary.*
>
> *Although there is a conviction about the effectiveness of whole of government approaches in the case studies, there is also a warning about judicious use. It is costly and time consuming and competing political and community agendas can undermine its objectives. It may not be the preferred approach for dealing with routine, straightforward issues.*
>
> *At the same time, these factors should not be used as an excuse to avoid a whole of government approach – the APS should be striving to create a 'culture of collaboration' that aids informal sharing of research, experience and expertise in addressing intractable problems.'*

In other words, whole of government solutions have an important role, as do the more conventional arrangements between and among agencies, to cooperate in the delivery of public services. As is generally the case, it is not a question of all or nothing. Rather it is a question of determining how best to respond to the increasing demands to integrate policies, programmes and services from

> *'increasingly demanding citizens, new information and communications technologies, continuing pressure on public sector budgets, experimentation with new ways to deliver services, and greater recognition of the complexity of social problems and the range of expertise from different institutions and sectors required to tackle them.'* [8]

Technology and '*E-government*' are the great enablers here. Over the last decade, the deployment of IT (including the use the Internet) in the APS has increased rapidly to modernise public administration. The resulting benefits to citizens, businesses and community include greater, and more seamless, access to government and to services.

In the light of these developments it is important to know 'who is responsible for what'; whether there is a common goal or whether agencies have discrete responsibilities; and which agency provides the leadership? Increasingly Memoranda of Understanding and protocols are being used by agencies to get clarity on these fundamental issues because they affect the governance arrangements employed. But there are also other dimensions that need particular consideration, such as skills and attitude to support whole of government initiatives, flexibility and a willingness to look afresh at challenging issues, and the ability to communicate and garner support for change, including structural change.

Developments in the Australian public sector have paralleled the new public service agenda in the United Kingdom with a much greater emphasis on how public services are delivered and the consumer demanding higher standards of service [9] — that is, we must become more 'customer-centric'. As one commentator remarked recently *The consumers of public services will demand that services are organised around them, rather than being structured so that they make sense to politicians and public officials'.* [10]

It is apparent that coordination arrangements are the focus of attention in many jurisdictions. The Northern Ireland Audit Office has just published an interesting report on Effective Relationships between Departments and their Arms Length Bodies (ALBs)[11]. While allowance needs to be made for the different administrative frameworks, the report makes the point that:

> 'Departments are responsible for establishing and documenting governance arrangements with their ALBs.' [12]

> 'Structures within departments for dealing with sponsored bodies should be clearly defined and provide clear channels of management, accountability and communication.'[13]

> 'Chairpersons and Chief Executives of ALBs should have rights of access to departmental senior management and to Ministers as appropriate.'[14]

Some of these considerations bear on portfolio governance arrangements in the Australian Public Service.

So we have a position in the Australian Public Service today whereby agencies have considerable autonomy to deliver services under government programmes established by legislation or government policies, but are also expected to work collaboratively to achieve greater cohesion across government. It is a positive development that organisational boundaries are no longer 'stone walls' and agencies are cooperating on many issues across many programmes. The arrangements are evolving, requiring ongoing consideration of governance and delivery issues. Of paramount importance, though, is that there be clarity of roles and responsibilities to allow for the effective and efficient delivery of services to citizens.

It is apparent that in this world, agency governance arrangements are critical to *'making it happen.'*

The ANAO's contribution to making it happen

Much of the work of the ANAO focuses on public sector governance, whether in the context of our performance or financial statement audits.

The ANAO has a dual role in contributing to corporate governance. The first role is to provide independent assurance, including through the assurance audits of public sector agencies — the more traditional audit role. Our second role is to suggest improvements in public administration.

In fulfilling this second role we have provided a series of Better Practice Guides on public sector governance. The first such guide was released in 1997 and promoted governance principles and better practices in budget-funded agencies.[15] A complementary guide was released in 1999, examining governance in Commonwealth authorities and companies.[16]

The third and latest guide[17] was released on 25 July 2003. It discusses better practice governance for all types of APS organisations and is designed to assist public sector organisations to meet the current pressures, and expectations, of their governance framework, processes and practices. The guide defines public sector governance to include:

> 'how an organisation is managed, its corporate and other structures, its culture, its policies and strategies and the way it deals with its various stakeholders. The concept encompasses the manner in which public sector organisations acquit their responsibilities of stewardship by being open, accountable and prudent in decision-making, in providing policy advice, and in managing and delivering programs'.[18]

We make the point that governance arrangements must be tailored to individual agency circumstances, based on a risk management approach that considers potential benefits and costs associated with activities that contribute to meeting specified objectives.[19] It is not a one size fits all situation, as many have noted - effective governance arrangements are those that are tailored to match individual agency circumstances, and the guide attempts to provide an appropriate range of options.

A theme running through the Guide is the basic principle that actions are more important than words. Its application depends on circumstances and context, and a range of other intangibles: such as judgements about and interpretation of what is appropriate for individual organisations. The basic message is that the intent and spirit of the law are just as important as the letter of the law. Accordingly, when it comes to public sector governance, better practice requires that governance structures be supported by the application of core governance principles which reflect, importantly, public sector values and codes of conduct.

Overall, the goal is to retain the fundamental emphasis on practice designed to assist agencies to actually make a difference to what they do.

The governance framework used in the Guide (<u>Figure 1</u> - The house of public sector governance) shows the key organisational and process elements that support good public sector governance.

Figure 1: The house of public sector governance
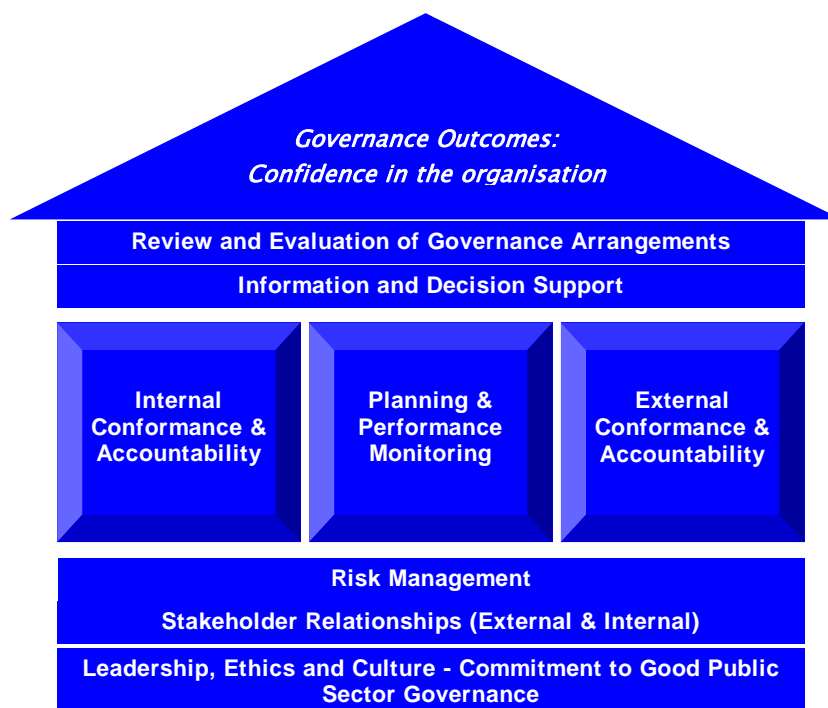
Source: Adapted from a model developed by the Queensland Department of Transport in its *Corporate Governance Framework for Queensland Transport and Main Roads: Final Report*, July 2001.

Implementing, maintaining and enhancing the elements shown in the diagram maximises the chances that the organisation will enjoy the confidence of its stakeholders, clients, staff and management and that it will be recognised as making sound, well informed and accountable decisions that lead to appropriate and effective actions and results.

The relationships established between the various elements of good governance are crucial. Leadership, ethical conduct and the development and existence of an organisational performance culture support and sustain the framework as a whole. Without them, there would be no solid foundation to build on.

It is through applying these principles, within an appropriate public sector governance framework tailored to the characteristics of each entity, that public sector entities will be able to conform with all legislation and relevant policies, and moreover, perform strongly against their specified objectives.

A related Guide produced by the ANAO, titled Public Sector Audit Committees – *Having the right people is key*[20], reflects an increased recognition of the

importance of audit committees in an organisation's overall governance arrangements. The pivotal role audit committees play in the Australian Government public sector is reflected in the requirement contained in both the FMA and CAC Acts for entities to establish an audit committee.

The requirement for audit committees is a very significant positive reform in public sector administration, especially the injection of independent members (from outside the public service), often with an independent chair.

Due to the greater accountabilities attaching to agencies, and in particular CEOs, today, it is prudent that agencies have arrangements in place that give assurance that high levels of organisational performance can be delivered in the short and long term. This is no easy goal and requires organisational understanding and support.

In implementing effective corporate governance the following three points must always be kept at the 'front of mind' [21]:

- Regulations and rules are only one part of the answer to improved governance. The prime responsibility for good governance rests with the entity rather than outside it.

- Designing and implementing corporate governance structures are important, but instilling the right culture is essential, that is '*Simply following procedures is not sufficient for good governance. Embedding desired values, organisational culture, and attitudes are all elements of governance*'.[22]

- Transparency about an entity's governance policies is critical.

Whole of government approaches are bringing new challenges to governance arrangements. The critical issue is to ensure that the governance arrangements apply to the whole rather than each of the parts. In other words, it is important that in coming together to meet a common goal, agencies focus on the performance of the partnership and not only their own contribution to the partnership. It is essential that the partnership has leadership and its own governance arrangements.

The ANAO's audit programme has included, and will continue to include, audits with a focus on whole of government issues.

One such audit was of Drought Assistance[23], involving quite a number of Australian Government agencies, including the Department of Agriculture, Fisheries & Forestry, the Department of Industry Tourism & Resources, the Department of Education, Science & Training, and Centrelink.

The audit concluded that Australian Government agencies made considerable efforts to deliver the drought assistance measures to affected communities. Delivery of assistance was, on the whole, accurate and timely. However, the overall response to the drought would have been facilitated by clearer arrangements for a lead agency, allied with associated risk management,

coordination and whole of government performance management arrangements, to assist with refining measures for better outcomes and to improve transparency to stakeholders, providing a more visible responsiveness to community concerns. Such an approach would also assist, in the future, in aligning policy, programme design and service delivery.

We are currently undertaking an audit of whole of government indigenous service delivery arrangements to assess how four key departments: Education, Science & Training; Employment and Workplace Relations; Families, Community Services and Indigenous Affairs; and Health and Ageing, are implementing whole of government objectives for Indigenous service delivery. The report is scheduled for tabling later this year.

Now, more than ever, organisations face intense public scrutiny of their business workings to a degree not seen before the public expects more than just compliance with the new 'rules'. As my predecessor, Pat Barrett, observed:

> *At the ANAO, we are very conscious that virtually everyone in Australia has an interest in how well the public sector performs, in how well it achieves value for money outputs, and in how accountable it is to the public and the taxpayer in particular. There is a high expectation of the public sector, quite rightly in my view, that it will have exemplary governance and administrative practices.* [24]

Making it Happen

So, what are the key steps to making it happen? Much has been written about corporate governance, but our work highlights there are at least 6 elements that make a difference in delivering public services:

1. Understanding your organisation (or virtual organisation) its goals and its environment:
    - legislation and policy framework;
    - stakeholders, products and services, people, business systems.
    - self awareness;

2. Providing leadership:
    - support from the top;
    - get to the substance of issues not just the form.

3. Ensuring the governance formalities are in place:
    - an executive board to support the CEO
    - key subcommittees and an Audit Committee that are rigorous in discharging their responsibilities
    - 'balanced scorecard' reporting and summary reporting on major projects

4   Investing in a sound planning approach to drive the agency forward and obtain ownership of the goals and strategies:

- a Corporate Plan (3 years);
- a Business Plan (1 year);
- operational and project plans as required;

5. Investing in risk management at the enterprise, divisional and project level:
   - the goal is to develop a culture that manages risks as part of day-to-day management.

6. Monitoring and evaluating performance:
   - self-evaluating; self-regulating
   - it is everyone's responsibility.

While most Commonwealth government entities have, at least structurally, the main elements of governance in place and have improved their efforts to integrate them, this alone is not sufficient to guarantee good governance practices.   This was emphasised by Justice Owen in his report on the HIH collapse. After noting that HIH had a corporate governance framework in place he found himself asking rhetorically: *did anybody stand back and ask themselves the simple question - 'is this right'*?[25] Justice Owen was effectively asking whether the directors and senior managers at HIH were personally satisfying the principles of good corporate governance.

Our work highlights that successful programmes and projects are generally delivered by 'switched on' teams following sound governance practices When problems arise, it is generally due to a lack of a coherent approach that has failed on one or more of the above steps.

Our reports are a useful resource for managers in the APS for the lessons they impart.   In broad terms, failure in governance affects organisational or programme performance, conformance with requirements and/or organisational standing. Some of the more specific messages include:

- Delayed projects mean services or capability is not being delivered as expected, and this can have knock-on effects for citizens, industry, or other parts of the responsible organisation. [26]

- Lack of adherence to statutory or policy requirements in the delivery of core business programmes may affect programme deliverables or introduce inequities.[27]

- Sub-standard reporting to stakeholders on performance may mask sub-optimal outcomes, and impair the quality of debate and decision making.[28]

- Failure to respond to address systemic issues in an agency can affect the standing of agencies, and lead to externally imposed reviews or solutions.

By delving further into some of these audit reports, there are quite a few more concentrated messages for public sector managers:

- Good process delivers good outcomes;
- Investment up front is more cost-effective than 'recovery action'
  : it can be tough when the spotlight stops on any organisation.
- Sound risk management is no longer discretionary;
- Project methodologies are designed to facilitate risk management;
- Regular reporting and monitoring allows for performance expectations to be confirmed or adjustments to be made where required;
- In contracting out, ensure the incentives for the private sector are appropriately aligned to the programme or project objectives;
- Be alert to cost-shifting in other jurisdictions where federal programmes complement state or local government programmes.

Our audit reports have identified a range of other influences which can make a positive difference to performance. These include:

- The interest of the CEO in good governance and good practices;
- Being clear on expectations (and accountabilities)
- Having the right skills (number and level);
- Putting the blowtorch on critical assessments;
- Encouraging a culture of self-evaluation/self regulation;
- Encouraging Internal Audit to review key systems and projects;
- Having an effective Audit Committee;
- Having a process to review and refer relevant ANAO findings and recommendations to programme managers.

Because, for most of us, it is impossible to remember all of the individual messages – in reality the list is infinite in the modern world - managers must be guided by a governance framework that suits their organisation and style. However, the framework should, in some way, at least cover off the 6 key elements referred to earlier:

- Understanding your organisation (or virtual organisation) its goals and its environment;
- Providing leadership;
- Ensuring the governance formalities are in place;
- Investing in a sound planning approach to drive the agency forward and obtain ownership of the goals and strategies;
- Investing in risk management at the enterprise, divisional and project level;
- Monitoring and evaluating performance.

Behind the audit reports that show up issues in relation to deficiencies in programme delivery – which all have some impact outside the Australian Public Service – are matters concerning governance. Far from being a brake on progress, good governance is an enabler for good results.

In this context, it is worthwhile to underline our responsibilities as public servants to comply with legislative requirements and applicable government policies. Too often, compliance is viewed as a 'chore' whereas the requirements are generally in place for good reason.

It is helpful in getting this point across that we see past the formal requirement, to understand the reason for the requirement. And if the reason doesn't stack up any more, or the costs appear to exceed the benefits, it is encumbent on agencies to raise the matter for consideration by ministers and/or central agencies as required. As indicated earlier, there is a greater willingness to address Red Tape issues today than has been the case previously.

You won't be surprised that, as the CEO of the ANAO, I endeavour to put into practice the governance framework referred to earlier, and to refine our approach in the light of experience. By way of example, the ANAO has an Executive Board, publishes its Corporate and Business Plans, measures performance by a balanced scorecard.

The ANAO has a very special role amongst public sector institutions in being able to report independently to the Parliament, and the Government, on the performance of public sector agencies.

As you will be aware, the ANAO does this through a programme of performance audits and financial statement audits, and it is through these two audit products that we foster improvement in public administration as well as providing independent assurance of public sector financial reporting, administration, control and accountabilities.

I am conscious that objective reporting of aspects of public administration does not always bring joy to the hearts of some agencies, or even some ministers. Nevertheless, our reports provide a stimulus for better public administration, due to the recommendations made, and the attention given to issues. To maximise the leverage of our work, though, we also produce our series of Better Practice Guides and, in recent times, a newsletter *AuditFocus*, which has been well-received by members of Parliament and public sector agencies.

Conclusion

It is a very interesting period in today's APS as agencies seek to manage their individual and collective responsibilities for delivering programmes in the most effective and efficient manner.

There is more flexibility in approach to delivering government services today than has been the case previously – from whole of government approaches focused on solving complex, cross-portfolio issues, to cooperative and coordinated approaches between agencies which deliver services in a complementary manner, to single agency delivery.

There is no question that the demand for more integrated government services will continue, and agencies will be expected to contribute across the full spectrum of delivery mechanisms. In these circumstances governance arrangements will need to be adaptable to ensure delivery of the outcomes expected by government, and the community at large.

Irrespective of the governance model adapted, there are some elements that the experiences of the ANAO suggest make a difference in delivering public services:

1.   Understanding your organisation (or virtual organisation) its goals and its environment

2.   Providing leadership

3.   Ensuring the governance formalities are in place

4   Investing in a sound planning approach to drive the agency forward and obtain ownership of the goals and strategies

5.   Investing in risk management at the enterprise, divisional and project level

6.   Monitoring and evaluating performance

It is important that governance extend beyond form to substance – successful programmes and projects are generally delivered by 'switched on' teams following sound governance practices.

As a final word on the governance issue I leave you with this thought:

> *Travelling the road of good corporate governance won't guarantee success, but not travelling upon it will almost certainly guarantee failure.*[29]

[1]   Management Advisory Committee (MAC) Report *Reducing Red Tape in the Australian Public Servic*e 28 February 2007.

[2]   Ibid, chapter 3.

[3]   Management Advisory Committee Report 2004, *Connecting Government Whole of Government Responses to Australia's Priority Challenges, p. 3.*

[4]   Ibid, p.4

[5]   Uhrig, J, 2003 *Review of Corporate Governance of Statutory Authorities and Office Holders.*

[6]   Ibid, p.5

[7]   Management Advisory Committee Report, 2004, *Connecting Government: Whole of Government Responses to Australia's Priority Challenges, p.10.*

[8]   Ibid, p.4, which quotes EA Lindquist, 2000 *'Preconceiving the Centre: Leadership Strategic Review and Coherence in Public Sector Reform'* in *Government of the Future* OECD (Organisation for Economic Cooperation & Development, OECD, Paris, pp 149-84.

[9]   Sturgess, Gary, *Blair's public service revolution – and how it's influenced Australia*, The Public Sector Informant, October, 2006, p 21

[10]   Ibid, p. 21

[11]   Northern Ireland Audit Office, 4 May 2007, *Good Governance – Effective Relationships between Departments and their Arm's Length Bodies.*

[12]   Ibid, p.13

[13]   Ibid, p.13

[14]   Ibid, p.18

[15]   ANAO, 1997, *Applying Principles and Practice of Corporate Governance in Budget Funded Agencies*, Better Practice Guide, Canberra.

[16]   ANAO, 1999, *Corporate Governance in Commonwealth Authorities and Companies*, Better Practice Guide, Canberra.

[17]   ANAO, 2003, *Public Sector Governance, Volumes 1&2*, Better Practice Guide, Canberra.

[18]   ANAO, 2003, Better Practice Guide *Public Sector Governance* Volume 1, Op.cit, p. 6.

[19]   Ibid, p. iii

[20]   ANAO, 2005, Better Practice Guide, *Public Sector Audit Committees – having the right people is the key*, February.

[21]   Economist Intelligence Unit, 2002, *Corporate Governance: The new strategic imperative*, The Economist, pp.1 & 3

[22]   CCH, 2004, *Public Sector Governance—Australia*, Sydney, p. 1102.

[23]   ANAO Audit Report No 50 of 2004-05, *Drought Assistance*.

[24]   Barrett, Pat, 2004, ANAO's Role in Encouraging Better Public Service Governance, An address to ANZSOG Students at ANU, p. 1, found on the ANAO website.

[25]   The Hon. Justice Owen, Commissioner, The HIH Royal Commission, *The Failure of HIH Insurance, Volume 1: A Corporate Collapse And Its Lessons,* April 2002.

[26]   See, for example, Audit Report No 24 of 2006-*07 Customs Cargo Management Re-engineering Project.*

[27]   See, for example, ANAO Audit Report No 31 of 2006-07 *The Conservation and Protection of National Threatened Species and Ecological Communities*.

[28]   See, for example, ANAO Audit Report No 23 of 2006-07 *Application of the Outputs and Outcomes Framework.*

[29]   Abetz, Senator The Hon Eric, 2003, *The Role of Corporate Governance in improving transparency and accountability in the public sector*, p.8