

**PUBLIC SECTOR ACCOUNTABILITY: KEEPING PACE WITH A
CHANGING PUBLIC SERVICE LANDSCAPE**

10th International Ombudsman Conference

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Marco Bini, Victorian Auditor-General's Office

Thank you for inviting me to speak at the International Ombudsman Institute's 10th World Conference. It is an honour to be here amongst accountability and integrity officials from all over the world.

I'd like to begin by introducing myself. I am the Director of the Policy and Coordination team in the Victorian Auditor-General's Office in Melbourne and work closely with our Auditor-General, Des Pearson.

In many respects, the role of Ombudsmen and Auditors-General share common characteristics:

- Both are - and should always be - independent of the Executive.
- Both roles involve scrutiny of Executive action
- In Australia, both report directly to the Parliament, which provides our work with a high public profile

Most significantly, both of these crucial institutions are trying to maintain the effectiveness of our accountability mandate when the public sector service delivery landscape is shifting.

Today I am going to discuss these shifts, pressures and trends in public sector accountability from an audit perspective.

First, I'll outline what I see as three key trends in public sector service delivery and governance that place pressure on current models of accountability.

I'll offer an analysis of the different ways each of these trends challenges, limits or erodes the mandate of the Victorian Auditor-General's Office.

Finally, I'll outline some reforms our Office is currently proposing, to address these accountability impacts of changing service delivery models, and stem the erosion of the Parliamentary audit mandate.



To begin, I'll share a little background on the role played by our office.

Auditors General are one of the longest established instruments of accountability in Australia's system of government. In Victoria, the Auditor-General's Office scrutinises the activities of Government and reports directly to the elected Parliament.

Although the role played by our Office has remained central to Victoria's accountability system across the past 150 years, our functions have shifted and changed as the public sector landscape around us has changed.

Victorian Auditor-General's Office: changing audit mandate

- 1851 Attest audit of transactions, year-round, often based in agencies
- 1958 'Extent of check' introduces discretion around scope of audit
- 1970s Financial (assurance) audit of systems and reports
- 1990s Performance audit mandate: "efficiency, effectiveness, economy"

Today...

- Financial audit of 500+ entities
- Performance audits of ~ 30 single topics each year

The Victoria Auditor-General's Office started up soon after Federation. Across the end of the nineteenth century, our auditors worked year-round, embedded in departments to **audit the financial transactions** of the government and its public service.

Although technologies and resources change, this role remained essentially unchanged until the 1950s, when the Office began to **set its own scope for auditing**, and use risk to determine which transactions to audit - and when.

By the 1980s, the Auditor-General had moved away from audits of transactions to providing **assurance on agency reports** – standing back to offer an external review of an agency's own reports. This function continues today, with the annual assurance audit of the financial reports of more than 500 Victorian entities.

In 1990, new legislation shifted away from a sole focus on finances and introduced the **performance audit** mandate, giving the Victorian Auditor-General the mandate to audit the 'efficiency, effectiveness and economy' of public sector activities. For the first time, Parliaments could ask their auditor to report to them **not just 'how much' – but 'how well'**. How well was government doing its job? How well was money spent? How well was the public interest guarded in major investments and dealings with the private

sector? Today, we release around 30 reports each year on the results of performance audits, maintaining a rolling program of single issue reports across the Parliamentary year.

This modern mandate of risk-based, performance and financial audits of systemic issues and significant activities provides broad accountability across the Victorian public sector and has been the envy of audit offices from other countries and - until recently - other Australian States.

Things have changed, however, since the 1990s. The rapidly changing nature of modern government in Victoria is undermining our once broad and effective audit mandate.

So, turning now to the key focus of today's session....

What are these trends in modern government that undermine accountability mechanisms in Victoria?



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VAGO
Victorian Auditor-General's Office

Changing face of government: impact on audit

Three key trends in modern government that:

- challenge (or 'erode') traditional accountability models and Victoria's audit mandate
- suggest a need for legislative reform.

These are:

1. Arm's length service delivery
2. Growing community expectation for performance information
3. Networked governance and joined up government

I'll discuss three today:

- 1. Arm's length service delivery**
- 2. Growing community expectation for performance information**
- 3. Networked governance and joined up government**

1. Arm's length service delivery

Increasing use of private sector to deliver public service

e.g. contracting out, Public Private Partnerships, alliances

The *Audit Act 1994* defines audit access via legal status of entity, not source of funds

Currently → limited audit access via contracts

- Not compulsory
- Too narrow
- Relies on voluntary participation by private sector partners

Contractual solutions are not sufficient

1. Arm's length service delivery

As other speakers today will doubtless outline, the key change has been the decentralization of service delivery that arrived in the new public management reforms of the 1980s and 1990s.

In Victoria, and I imagine across Australia and probably most of the western world, we have seen more and more services to the public delivered through

- straightforward fee-for-service contracting
- commercial partnerships with the private sector, through alliances and PPPs
- service delivery through the community sector, through grants and contracts
- public entities created at 'arms-length' to government, with a high degree of autonomy and often blurred oversight and accountability

This trend has placed significant portions of government activity - and public funds - outside the scope of the Auditor-General. Our *Audit Act* defines the ability to audit based on the legal status of the entity, rather than the source of

funds provided. This provides a serious obstacle on how far we can go in auditing the use of public funds.

You have already heard from the other speakers in this session about the problems caused to the Ombudsman's mandate by the privatisation of government services.

Although our Act generally provides for audit access to the activities of not-for-profit entities managing public funds, no corollary access is established for private sector entities.

Currently, we only have very limited audit access to information held by private sector or community parties performing public sector activities, such as

- Prison management
- Public transport
- Developing and maintaining major public infrastructure – both physical and technological
- Providing health advice and health care
- Community housing

Often, even this limited access is dependent on provisions in the contracts for service that the government designs. These provisions are not compulsory, too narrow, and are rarely enforceable by my Office, because the Auditor-General is not a party to the agreements.

For this reason we have been seeking now for a number of years, amendments to our Act to enable us to 'follow the dollar'.

In relation to 'follow the dollar' legislation, you may be interested to know that a number of Australian jurisdictions now have this power, albeit with a great deal of variety in the drafting of the power. The jurisdictions of the Commonwealth, Queensland, the Northern Territory, Tasmania and Western

Australia all have a form of ‘follow the dollar’ legislation. In my view, the jurisdiction with the most clearly drafted ‘follow the money’ powers is the Commonwealth – that is, the Australian Auditor-General. The breadth of these as yet untested powers will enable:

- Performance audits of any person or body who receives Commonwealth money, so long as they have agreed to use the money to achieve that purpose/entered into a contract. This is not limited to particular types of entities and covers grants.
- The ability to audit contractors is explicit in the legislation. This is a broad power because it is not limited by the type of entity that can be audited.
- Broad access powers to documentation which include access to premises.

At a minimum, I believe that VAGO should have the ability to:

- undertake financial and/or performance audits of any matter relating to ‘public money’ (money given by the State to another person/body). This would include grants and commercial contracts for services with all types of entities (not-for-profits and for-profits). The provision should be silent in relation to the type of entity that may/may not be audited as this restricts the Auditor-General’s power.
- There should be broad access powers for the Auditor-General, including the ability to access premises, backed up by coercive powers to compel a person to provide evidence.

2. Performance reporting – assurance and quality

Increasingly high **community/stakeholder expectations** of being able to monitor the performance of their government.

→ Agency annual reports now often contain performance measures and other information, as well as financial

However: legislation requires annual assurance audits of **financial** reports only – not performance

→ No checks and balance on this information

Proposal for reform: annual assurance audits of performance statements (alongside financial statements)

Best current model? Western Australia

2. Transparent and accurate performance information

Moving now to the second trend our Office has identified, there are increasingly high community and stakeholder expectations that the performance of government be monitored. This trend can be described as “performance as accountability”¹, with the argument being that for a democracy to work, citizens need to be given information about results as well as money spent (Colin Talbot, 2005).

To meet this expectation, public sector performance reporting is becoming more and more common. In Victoria, agency annual reports now often contain a broad range of performance measures and other mandatory and non-mandatory qualitative and quantitative performance information.

The rise in performance reporting is to be commended. However, sadly agencies rarely deliver this information with the rigour that it deserves.

¹ Talbot, C, ‘Performance Management’, in Ferlie, E, Lynn Jr, L, Pollitt, C (eds), *The Oxford Handbook of Public Management*, Oxford University Press, Oxford, 2005, p.496

Recent Victorian Auditor-General reports on *Performance Reporting in Departments*² and *Performance Reporting in Local Government*³ highlight persistent problems with the accuracy, relevance and accessibility of the performance information available.

This trend, and the failure of government to meet the challenges it poses, does not so much erode our audit mandate as highlight its limitations.

Although our one-off performance audits of performance reporting practices have been received well, real change in the quality of public sector performance reporting will not occur until this kind of reporting receives the same routine checks and balance as financial reports: through regular, annual, assurance audits.

At present, the *Audit Act* requires annual assurance audits of financial reports only – there is no corollary across-the-board requirement for assurance audits of performance reports.

Other jurisdictions are much more advanced in this regard as assurance audits of performance statements have been mandatory in some other jurisdictions for decades. For instance, in Western Australia, the Auditor-General must audit and report each year on the adequacy, appropriateness and fair presentation of key performance indicators developed by agencies⁴.

I am pleased to say that the Public Accounts and Estimates Committee of Parliament has supported an amendment to our legislation to enable the Auditor-General to audit performance statements of government departments⁵

² Victorian Auditor-General's Office, *Performance Reporting in Departments*, May 2010

³ Victorian Auditor-General's Office, *Performance Reporting in Local Government*, June 2008

⁴ Section 15, *Auditor-General Act 2006 (WA)*

⁵ Recommendation 31, PAEC Inquiry into the *Audit Act 1994*, October 2010

We are hopeful that the Victorian government will respond to the Committee's recommendation and act to meet the community's expectations.

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2. Joined up government – but no joined up accountability

Public services now delivered:

- not just by mixture of public and private but
- often through partnerships between different governments
e.g. State/State, State/Commonwealth

However - *Audit Act 1994* does **not** allow for VAGO to

- undertake joint audits across Australian jurisdictions (as required under new Commonwealth/State agreements)
- share information with other integrity bodies (Ombudsman, new Corruption commission)

Proposal for reform: amend secrecy provisions in *Audit Act*

Best current model? TBC!

3. Joined up government

The third trend that I'd like to focus on is the trend towards shared and networked delivery of services, including "joined up" government.

This concept is not unique to federations, such as Australia, and I am sure it has relevance for other jurisdictions. "Joined up government" has been described by the Victorian State Services Authority as "Working collaboratively across departments, portfolios or levels of government to address complex issues which cross individual agency boundaries"⁶.

Public services are now delivered not just by mixture of public and private, as I spoke about earlier, but often through partnerships between different governments.

Aged care, hospitals, flood and bushfire recovery, transport infrastructure, community services, education and disability services, are all delivered jointly,

⁶ State Service Authority, *Victorian Approaches to Joined up Government – An Overview*, November 2007

through new kinds of hybrid legislation stretching between jurisdictions, and through formal agreements between the Commonwealth and the State.

Following this new kind of joined up delivery has come a public appetite for joined up accountability.

To date, public sector audit has stopped at State lines – legislation has prevented State and national audit offices from reaching across boundaries to ‘follow the money’ and review funded activity in other jurisdictions.

It seems, however, this is no longer good enough: media, community and Parliamentarians have increasingly called for more seamless end-to-end accountability to track the funds flowing from the Commonwealth to the States.

These new expectations are also triggering some significant shifts in accountability and audit arrangements.

Last year, the Australian Auditor-General was provided with legislative powers to undertake audits of States and Territories that have received federal funding from the Government – skipping over the boundary to follow the money into the States. As I am sure you can imagine, this creates a new and more complex landscape for the audit mandate in Victoria.

Meanwhile, our Office has begun to see Commonwealth/State Funding Agreements with innovative new ‘joined up accountability’ features, requiring State programs to be subject to audit from both State and Commonwealth audit offices.

These Agreements required a ‘coordinated audit approach’ between the Victorian Auditor-General’s Office and Australian National Audit Office. One Agreement required that both audit offices collaborate on an agreed audit plan, carried out between them, with information shared between offices.

At this stage, however, it is unlikely that our Office can actually fulfil the role envisaged in these new Agreements.

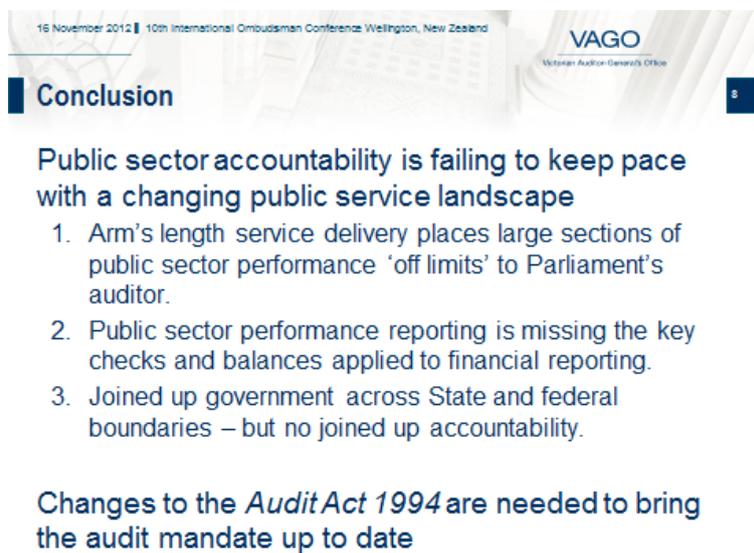
Our Audit Act carries strict secrecy provisions which make our ability to share audit information very limited, even with other Auditors General.

Without amendment to our legislation, it is doubtful we can share the information necessary to truly undertake coordinated audits, regardless of the provisions in these new Agreements.

Indeed, as I left Melbourne, our Office was in the process of trying to resolve a real-life example of this: the legislation of a newly created Commonwealth-State health body calls for a combined audit from all States and the Commonwealth. It looks likely that our secrecy provisions mean that we cannot comply, and that audit offices and the new body will need to find another solution.

So...whilst there is a national movement towards joined up service delivery, and towards joined up accountability, the limitations to Victoria's audit mandate hold back our State from full participating in the new arrangements.

As a final comment on this issue, it is worth noting that these same secrecy provisions also prevent the Victorian Auditor-General's Office from undertaking joint investigations with any of the other integrity bodies in our state, including those represented here today.



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Conclusion

Public sector accountability is failing to keep pace with a changing public service landscape

1. Arm's length service delivery places large sections of public sector performance 'off limits' to Parliament's auditor.
2. Public sector performance reporting is missing the key checks and balances applied to financial reporting.
3. Joined up government across State and federal boundaries – but no joined up accountability.

Changes to the *Audit Act 1994* are needed to bring the audit mandate up to date

To conclude:

In three different ways, Victoria's oldest accountability institution is struggling to keep pace with the changing public sector landscape around us.

- Our audit mandate has been gradually eroded by the increase in arm's length delivery of services by bodies outside the public sector.
- Despite the steady increase in non-financial performance reporting by public sector agencies, we cannot offer the same checks and balances for this information as we do for financial reports.
- Hemmed in by secrecy provisions, we are unable to meet community expectations for 'joined up' accountability, placing in doubt the capacity for nationally cohesive audit coverage of 'joined up government' programs, structures and systems.

These issues are under consideration at the moment by the Government of Victoria, as part of its review of the *Audit Act 1994*.

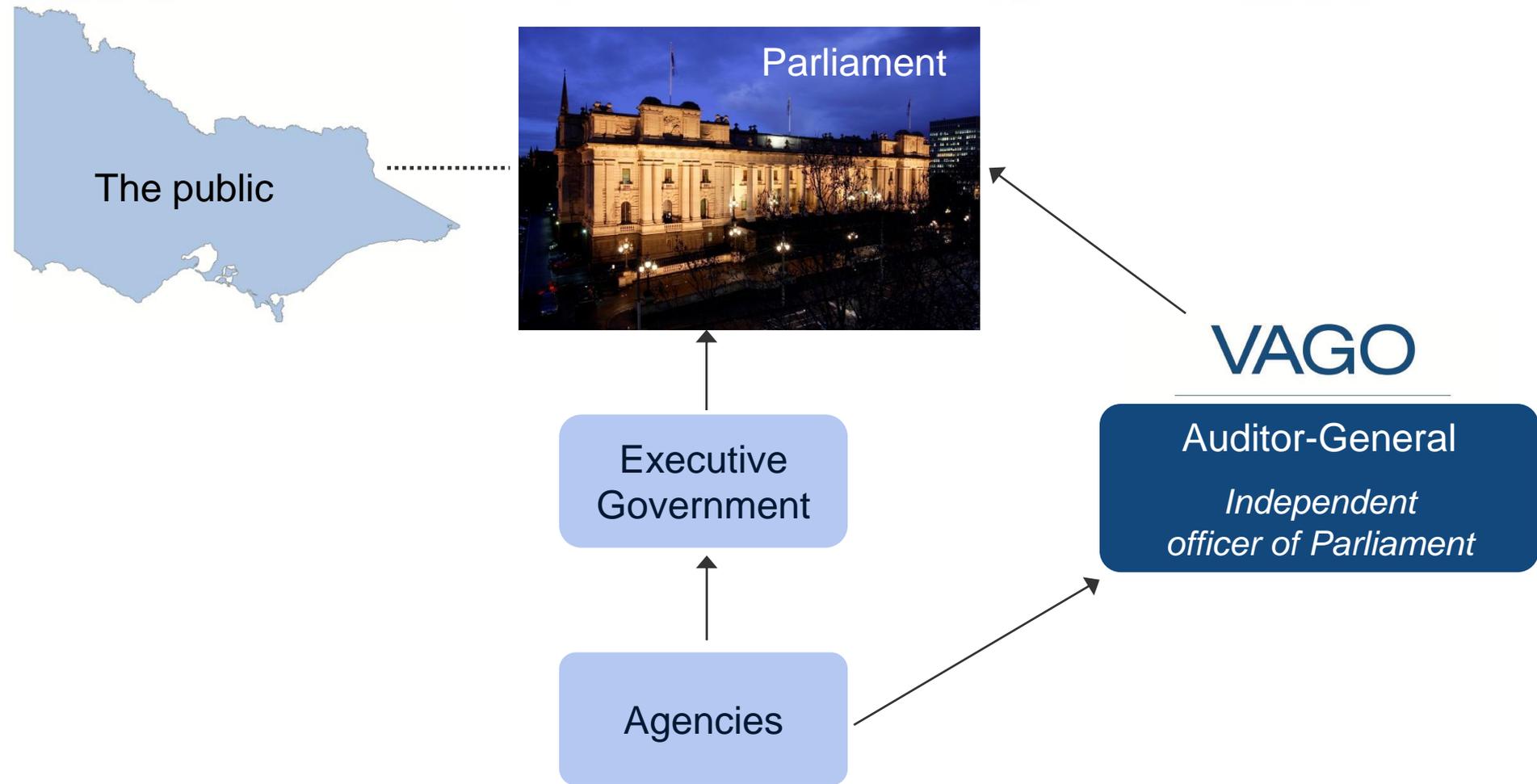
We are optimistic that soon we will see changes to our legislation – changes which will enable Victoria's key accountability mechanisms to keep pace with the changes of the last twenty years.

Public Sector Accountability: Keeping Pace With A Changing Public Service Landscape

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External auditor of the public sector



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Proposal for reform: “audit of public funds”/ follow-the dollar

Best current model? Australian National Audit Office

2. Performance reporting – assurance and quality

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More information

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