

Applying INTOSAI Independence Principles: An Australian experience

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Background

- Several Australian jurisdictions were considering legislative change for their Auditors General
- Parliament of Victoria held an inquiry into changes necessary to the Audit Act 1994
- VAGO commissioned a researcher to assess all Australian and NZ Auditor-General (public sector audit) legislation against INTOSAI Principles of Independence (ISSAI 10)
- The annual conference of Australasian Public Accounts Committees invited us to speak on the results
- Australasian Council of Auditors General (ACAG) published the assessment on their website



INTOSAI Independence Principles (ISSAI 10)

- 1. An effective statutory legal framework.
- 2. Independence and security of tenure for the head of the audit institution.
- 3. Full discretion to exercise a broad audit mandate.
- 4. Unrestricted access to information.
- 5. A right and obligation to report on audit work.
- 6. Freedom to decide the content and timing of audit reports and to publish them.
- 7. Appropriate mechanisms to follow-up on audit recommendations.
- 8. Financial, managerial and administrative autonomy and availability of appropriate resources.



Why did we do this assessment?

- Added <u>objectivity</u> to our bids for reform to our legislation
 - External framework
 - External assessor
 - International and national comparisons possible
 - Used for Parliamentary inquiries
- Gave Australian and New Zealand public sector audit offices a 'common language' we could use to discuss our concerns about independence and our legislative reforms
 - Helped put us on the 'same page' when seeking changes to legislation



How did we do this assessment?

- Used the INTOSAI Independence Guidelines at ISSAI 11
 - Broke down the Independence Principles (ISSAI 10) into a practical list of factors contributing to independence
- Defined 'independence' as being 'free from executive influence'
- Scored the legislation for all Australian and New Zealand public sector audit offices 0-10 for each factor
- Added up the scores to see which office rated well/poorly in which independence factor...and an overall independence score!
- Repeated again in 2013

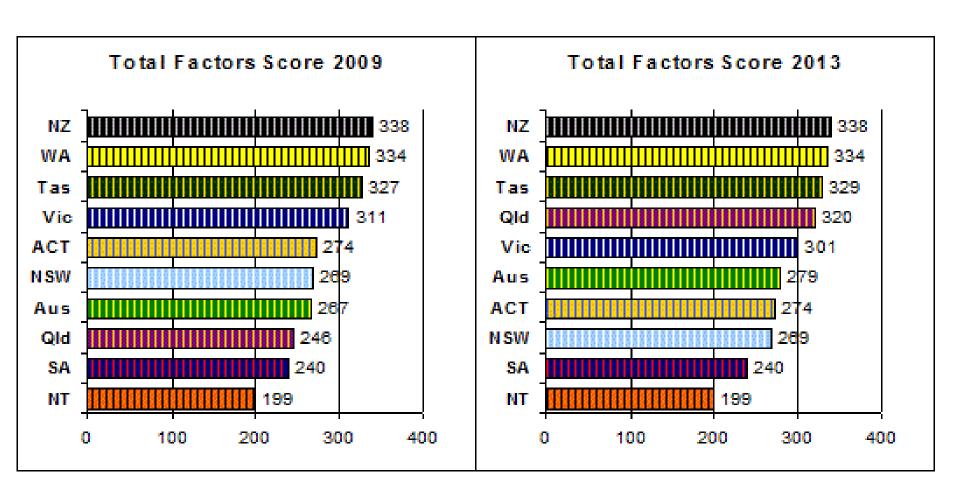


Independence ratings (0-10)

- 0. <u>Silent or Executive decides</u> -- the legislation is either silent or the factor is under control of the Executive.
- 1. <u>Parliament consulted</u> -- the Executive is required to consult a Committee of Parliament or leaders of each political party within the Parliament before making a decision about the factor.
- 2. <u>Parliament veto</u> -- the Parliament or a Committee of Parliament is able to veto a proposal from the Executive about the factor.
- 3. Parliament recommends -- the Parliament or a Committee of Parliament .
- 4. Parliament decides -- any decision is made by the Parliament or a Committee
- 5. <u>Independent body decides</u> -- any decision on the factor is made by an independent body
- 6. Auditor General decides -- any decision on the factor is made by Auditor-General
- 8. <u>Legislation mandates</u> -- the factor is explicitly addressed in the legislation. Any variation would require legislative amendment in Parliament.
- 10. <u>Constitution mandates</u> -- the factor is embedded in the Constitution and requires a large Parliamentary majority and/or referendum.



Overall findings: independence scores 2009 and 2013





1. Appropriate statutory framework

- Presence of enabling legislation / separate legislation
- Whether legislation mandates independence
- Presence of oath or affirmation of office
- Constraints on other employment
- Who determines remuneration, rank and status
- Relationship with Parliamentary Committee
- Statutory review of audit office



2. Appointment and Immunity

- Appointment by whom and ineligibility
- Acting appointments and statutory Deputy
- Term of appointment, eligibility for reappointment
- Removal, suspension, restoration, resignation
- Remuneration protection and appropriation
- Immunity



3. Mandate and Discretion

- Functional mandate type of audit work that the Auditor General can undertake.
- Coverage types of entities, bodies, or persons covered by Auditor-General
- Discretion for the Auditor General to undertake audits, examinations or investigations or to otherwise exercise the mandate provided (free from direction)



4. Access to information and confidentiality

- Access to Documents and Persons
- Access to Premises
- Confidentiality



5. + 6. Reporting

- The obligation to report to Parliament
- Ability to report directly to the Parliament
- Discretion over when to report, what to include in, or exclude from, a report
- Status of responses from audited entities
- Reporting of sensitive information



7. Follow-Up Mechanisms

We assessed:

 whether the Parliament has some mechanism for considering the Auditor General's findings, for holding the government to account and for following up on recommendations.



8. Managerial Autonomy and Resourcing

- Staffing independence
- Financial independence
- Office/structural autonomy, including whether the Auditor-General was the chief executive
- Executive influence on the auditor of the Auditor General



Key findings

Statutory frameworks and appointment arrangements

- Victoria has the strongest statutory independence safeguards because
 A-G is appointed under Constitution Act 1975.
- Most jurisdictions appoint via Parliament, although 2 appoint their A-Gs by executive and 2 can suspend by executive.
- Room to improve statutory arrangements for rank, remuneration and statutory reviews of the audit office.

Mandate and discretion

- Functional mandates are broad (performance, KPI, compliance) but coverage mandates have gaps (e.g. GBEs, courts) and are getting narrower (due to outsourcing)
- Discretion varies widely Victoria prohibits direction via Constitution
 Act, whereas SA, NT & Tas allows Executive to direct in some cases.



Key findings (cont'd)

Access to information and confidentiality

- Access to documents and persons generally robust (although Vic amendments are constraining e.g. s.11E)
- Access to premises needs improvement in most jurisdictions
- Confidentiality was mostly strong, however in 1 jurisdiction, a Minister can order an Auditor-General to disclose

Reporting

- Generally strong rights and obligations to report
- Strong discretion on what/when to report
- Weak independence and discretion around written responses from audited entities.



Key findings (cont'd)

Managerial autonomy

- Did not score well significant challenges to independence
- Australian audit offices score low on independence for structure, as they are usually departments of the public service (except NSW and NZ), and therefore subject to regulation by the executive
 - (e.g. VAGO and current revision of Standing Directions)
- Audits of the Auditor-General's office were not always free of Executive influence - in four jurisdictions, Executive appoints the auditor of the Auditor-General, and can determine terms of reference.



Priorities for Victorian Auditor-General's Office

Analysis against ISSAI 10 identified priorities for reform of our legislation

- Decrease oversight from PAEC and VI
- Extend mandate to capacity to audit all activity funded by Parliament.
- Access to premises
- Strengthen access to information outside the public service
- Discretion in reporting remove constraints
- Tabling of reports out of session/electronically
- Budget via Parliament not Executive



Conclusion

Using INTOSAI Independence Principles and guidance (ISSAI 10 and 11) allowed Australian Auditors-General to

- identify the areas where our legislation needed to be strengthened, and
- compare ourselves with each other to learn from better practice



Questions?

http://www.audit.vic.gov.au/ marco.bini@audit.vic.gov.au

Independence of Auditors General – Survey of Australian and New Zealand audit legislation

http://www.acag.org.au/Independence-of-Auditors-General-in-ANZ-2013.pdf

ISSAI 10 – The Mexico Declaration on SAI Independence http://www.intosai.org/issai-executive-summaries/view/article/issai-10-the-mexico-declaration-on-sai-independence-eger.html