



## **GREAT GOVERNANCE IN TIMES OF CHANGE**

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### **Introduction**

Government owned organisations regularly undergo rapid and dramatic change. Their ownership, structure and even purpose can be called into question, reviewed and revised within timeframes that the private sector would never be able to cope with. Elections are a major, but not the only, cause of this constant change. Even in mid term, a single shareholder has the power to make wide ranging changes that can place the governance and management structures under intense pressure.

To further complicate matters, public sector organisations work in areas of activity where market mechanisms struggle to provide adequate responses to the challenges and often provide goods and services that are essential for the economy, society or environment; there can be no interruption in supply, regardless of the turmoil that the organisation is going through. Experience has proven that most organisations in the public sector continue to serve their purpose regardless of the changes in circumstance.

Given the two factors mentioned above, it appears obvious that governance in the public sector needs to be stronger and yet more flexible than in the private sector. Yet, when considering the nature and characteristics of public sector governance, it is more likely that bureaucratic rigidity, adherence to the rules and respect for traditions will spring to mind than notions of resilience, flexibility and resolute customer service. This paper examines the apparent paradox between the branding and reality of public sector governance.

### **Defining governance**

There is, to make life more interesting, no agreed definition of corporate governance or on the structures and practices that are required to provide good governance. Within the Australian public sector the most commonly used definition is “the arrangements by which the power of those in control of the strategy and direction of an entity is both delegated and limited to enhance prospects for the entities long-term success, taking into account risk and the environment in which it is operating”. This is the definition coined by John Uhrig in his Review of the Corporate Governance of Statutory Authorities and Office Holders in June 2003.

Brendan Butler, at the fourth Annual Public Sector Symposium in June 1999 put it more succinctly, “If management is about running a business,

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governance is about seeing it is run properly.” This definition encompasses much of the culture of oversight and also the definition of ‘what is proper’ that should underlie the strategic direction of the entity. The discussion about what is ‘proper’ is a recurring theme among the governors of successful public sector organisations.

One of the principles emerging from John Uhrig’s review was that the owners, or their representatives, need to set its purpose clearly and to state their expectations of performance. As governments change so, too, does the philosophy of governance and, hence, the definition of purpose or what it is ‘proper’ for an organisation to do.

Governance is generally provided by a group of people. In this paper that group is referred to as the ‘governing team’; that is because this paper does not suppose that the governing team is a board, because not all public sector organisations have boards. One of the characteristics of the governing team, however, is that its members are people who have some choice in *what* the organisation does and in *how* it does what it does. They are the people who decide what is ‘proper’.

## Values

The concept of ‘proper’ is a moral one and its definition is shaped by other moral concepts such as values. For values to be useful at an organisation wide level they must be widely held and shared by most of the members of the organisation<sup>1</sup>.

Within the Australian public sector a set of core values are established and adherence is required by law. These values underpin the decision-making within organisations as to what constitutes a ‘proper’ course of action or a ‘proper’ set of priorities. As the governing group discuss proposed or potential strategies the values guide and support the discussion creating the possibility of a respectful debate even where there are strongly opposed points of view.

The values are expressed in terms of a description of the Australian public service and state that it shall:

- Be apolitical, performing its functions in an impartial and professional manner;
- Be a public service in which employment decisions are based on merit;
- Provide a workplace that is free from discrimination and recognises and utilises the diversity of the Australian community it serves;
- Have the highest ethical standards;

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<sup>1</sup> The term ‘members’ is used in this context to encompass all the people who work for and with the organisation and not in the more narrow definition of shareholders or owners of the organisation.

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- Be openly accountable for its actions, within the framework of Ministerial responsibility to the Government, the Parliament and the Australian public;
- Be responsive to the Government in providing frank, honest, comprehensive, accurate and timely advice and in implementing the Government's policies and programs;
- deliver services fairly, effectively, impartially and courteously to the Australian public and is sensitive to the diversity of the Australian public;
- have leadership of the highest quality;
- establish workplace relations that value communication, consultation, co-operation and input from employees on matters that affect their workplace;
- provide a fair, flexible, safe and rewarding workplace;
- focus on achieving results and managing performance;
- promote equity in employment;
- provide a reasonable opportunity to all eligible members of the community to apply for APS employment;
- be a career-based service to enhance the effectiveness and cohesion of Australia's democratic system of government;
- provide a fair system of review of decisions taken in respect of employees.

Agency heads are bound by the Code of Conduct in the same way as APS employees and have an additional duty to promote the APS Values.

Not every public sector entity is bound by the values but, as staff move across different organisations whilst progressing with their careers, the values permeate the sector and a culture develops where these values, even when they are not recognised, guide the creation of structures and controls for directing the organisation.

### **Creating culture: The work of governors**

Culture does not just evolve; it can be desired, designed and devised.

The principle work of the governors of the organisation is often characterised as 'setting the tone at the top'; this is a recognition of the role of the governors in creating the proper culture for the purpose of the organisation.

Culture and purpose are intertwined. A proper culture will suit the purpose of the organisation and a culture should never be sought without a deep reflection on the strategic purpose that the culture will play in the organisation. Although the APS values are widely held across the sector, the culture of different organisations within the sector can vary remarkably from one organisation to the next. For a culture to be resilient it must be aligned with the

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purpose of the organisation and that purpose must be well understood by all who work in the organisation. Resilient and well aligned cultures will function well, providing a well governed service, in the face of challenges, including political upheavals, physical disasters and unfavourable press coverage.

However, having decided on the culture that they want; how do the governing team ensure that it is implanted? The simple answer is that they live the values themselves and allow others in the organisation to see and experience how the values are put to use in the context of the organisation. The ease with which the governors can be seen to apply the values depends on the governance template under which the organisation has been structured.

### **Structural templates**

Organisations in the public sector generally conform to either the 'board template' or the 'executive management template' or are a hybrid with characteristics that are derived from the other two templates.

Under the 'board template' the organisation will have a board to which the government has delegated full powers to act. This is often the case for organisations where the government does not fully own the assets of the organisation or where the organisation is expected to sustain itself from its own internal funding through sale of goods and services (including regulatory supervision and/or licenses). It is often the case that these organisations are expected to have a more 'commercial' culture or to be better able to operate independently whilst government is temporarily in abeyance during times of change.

Under the 'executive management template' the organisation is managed by a CEO who reports to the relevant department head (or secretary) or Minister. These organisations are usually those that rely on public funding and that supply products and services where a 'user pays' philosophy would produce an unfair outcome.

The most common hybrid organisation is an executive management structure with an advisory board or committee.

### **Ease of access**

The governing team in executive management template organisations has daily interaction with the staff of the organisation they govern. They are thus in a better position to model and exhibit the required values and behaviours than their counterparts in the board template organisations or on the advisory boards or committees of hybrid organisations. Sometimes these board or committee members are only together once every three months and are only interacting with a few of the more senior managers of the organisation.

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How, under these circumstances, can the governing team ever hope to influence the culture and achieve great governance that will continue, even when they are absent and even when the government itself is changing? (Regardless of the outcome of the election the government will be different after the election because policies and people have changed.)

The principle decision that these boards make to influence the culture of the organisation is their choice of a CEO or senior executive. The person demonstrates clearly and continually the desired culture, through the values that the person demonstrates in his or her daily work. This can be an issue for boards (or Ministers) in making an appointment. It can be hard to defend an appointment of a person with less experience or lower qualifications on the grounds that they more closely fit the cultural ideal; yet that is exactly what must be done if a living reminder of the desired culture is to continually demonstrate the way to implement the culture in the work of the organisation.

Other ways in which the board or committee can influence culture (and which they may have to rely upon if they are not in a position to make their own appointment decision) are by their own behaviours, by the importance they attach to specific elements of the organisation's performance and by the issues that they choose to prioritise. All of these are seized upon by others in the organisation as indicators of 'what is important round here'. Behaviours of the board are copied; the board is in a position of power therefore these behaviours must be the ones that will be rewarded. Either by the board (who will be expected to favour those who do as they do) or by the people who recruited the board.

### **Focus on what is important**

The focus upon what is presumed to be important is crucial for good governance. A correctly focused governing team will naturally develop a correct focus across the entire organisation.

So what, given the competing demands and priorities of the sector, is a correct focus? It all comes back to the question of purpose. For many this purpose will be clearly set out in a statement of obligations or expectations from the relevant Minister or in the enabling legislation. For others it is an evolving concept and changes with each iteration of the organisation's strategy. Whether it is set externally or internally the strength of this focus will be the foundation all the governance processes, structures and policies that the governing team puts into place to achieve the purpose.

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In research carried out over a three year period with members of governing teams (directors) in government sector organisations it was found<sup>2</sup> that the key focus was, in order of priority, on:

1. Government
2. Resources (especially human ones)
3. Strategy development and implementation
4. Reputation
5. Leadership
6. Financial performance.

A focus on government, per se, undermines the governing purpose of the organisation and, if government changes, can leave the organisation rudderless in the face of the winds of change. The remaining priorities, if correctly resourced and managed, should deliver outcomes that will meet the needs of the owners. Focus on the needs of the owners can lead to an organisation that becomes too internally referenced to deliver relevant goods and services to a demanding stakeholder base.

It is important that the governing team have a clear idea of which elements of the organisation's purpose are fixed and will remain so, regardless of changes in ownership or philosophy, and which elements are temporary and may be allowed to vary. Thus, when the Victorian power generators were first privatised, although the nature and values of the owners had changed dramatically upon signing the sale contracts, the focus on generation and on safety did not waver. The organisations continued to operate whilst the new cultural elements were developed and nurtured.

### **Sticking to the core operations**

This aspect of focussing on the core operations is particularly striking in resilient organisations. The ability of staff at many levels to simply keep the operations ticking over and allow whatever external developments are taking place to run their course has been widely lauded in private sector organisations but is rarely commented upon in the government sector. It is seen as so much a part of the culture that it passes beneath notice and does not often merit a mention.

However, when an election is expected, or after a new government has been elected but before it can establish the organisation and capabilities that it needs to be effective, this ability to keep the operations going without becoming distracted by the changes is a very valuable skill. Of course it is enshrined in the caretaker provisions. Of course everyone knows how important it is to comply. But not everyone realises the importance and value

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<sup>2</sup> Julie Garland McLellan, presentation to AICD IIAA Public Sector Governance Conference, 14 September 2006

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of this compliance. It is, like the core purpose, one of the key structural elements of robust governance under changing or uncertain ownership.

### **Caretaker provisions**

The caretaker provisions are so named because, when parliament is dissolved for an election to take place, the 'caretakers' of the public service (under the guidance of the Department of Premier and Cabinet) run the public sector until a new government has been formed. The caretaker provisions are, in spite of the great respect with which they are implemented, not actually legally binding. Like many other aspects of good governance practice they have been found to work well under a regime of commonsense and sound personal judgement. Precise legal definition has not been needed.

The key thrust of the caretaker provisions is that agencies and other organisations in the public sector should not do or say anything that would influence the political contest that is underway or that would restrict the freedom of action of the incoming government in any way. This is taken to include making 'significant' appointments, policy decisions or commitments. Each organisation must decide what constitutes 'significant' in its own circumstance.

Organisations must also take care to be impartial in their use and dissemination of information including that on their websites and in 'persona' emails. Any briefing material sent to political parties should be sent to all of them, not just the one that asks for it. Many public sector employees find that, rather than risk a statement that could be misconstrued, it is safest to retain information during this sensitive period. This includes statements on websites and presentations given at industry conferences and can be personally quite irksome as it requires the individual to evaluate each utterance rather more carefully than they might under normal circumstances. However the provisions appear to achieve their purpose and to restrict the potential for public sector resources to become involved in delivering political outcomes.

### **Summary**

If governance is defined as 'seeing that the organisation is run properly' then the key aspects of good governance include a careful definition of what is proper. This can be achieved either through legislation or through development of a memorandum of understanding with the relevant Minister or a suitable strategic plan.

Having decided what is a proper aim for the organisation it then remains to establish an appropriate culture supported by consistent values. In the Australian public sector a core set of values are enshrined in legislation but

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these must still be supplemented by strategically selected values that are aligned with delivery of the strategic plan.

The choice of CEO and senior management team is the most important factor in establishing the values but it can often be difficult to justify a recruitment decision where values and culture have taken precedence over 'harder' considerations such as qualifications, experience or track record. The senior executives are constantly available as role models and the rest of the organisation will adopt the values that these people enact in their daily work.

A board or committee that has a governance role can assist in supporting development of an appropriate culture by their own behaviours but this is less effective than supporting culture through hiring of appropriate senior executives. In particular the amount of time and interest that the governing board or committee dedicate to issues will generate a commensurate prioritisation in the minds of the employees and can bring about a strong focus on the strategic priorities. The converse is also true and a governing team that is incorrectly focused will inevitably find itself at the helm of an organisation that lacks an appropriate focus.

It is the correct establishment of these core priorities and activities that leads to an organisation with a proper focus on the core activities that deliver the desired benefits. Once established this focus is very robust and will persist even in the face of significant distractions including elections and changes of ownership. The caretaker provisions are a temporal embodiment of focus on operations. They should be based upon sound personal judgement and commonsense; the same two attributes that should underpin a governing team's focus on the key strategic issues.

Thus the key to robust governance is a clear focus on the strategic priorities and a selection of people with appropriate values to lead the organisation in pursuit of its strategic aims.