

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 objectivity 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?

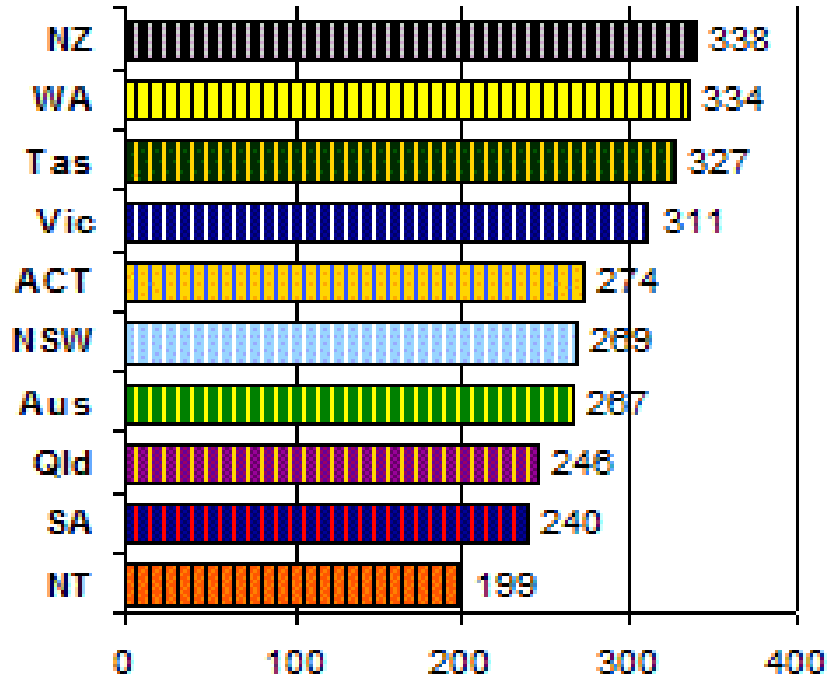
- Used the INTOSAI Independence Guidelines at ISSAI 11
 - Broke down the Independence Principles (ISSAI 10) into a practical list of factors contributing to independence
- Defined 'independence' as being 'free from executive influence'
- Scored the legislation for all Australian and New Zealand public 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)

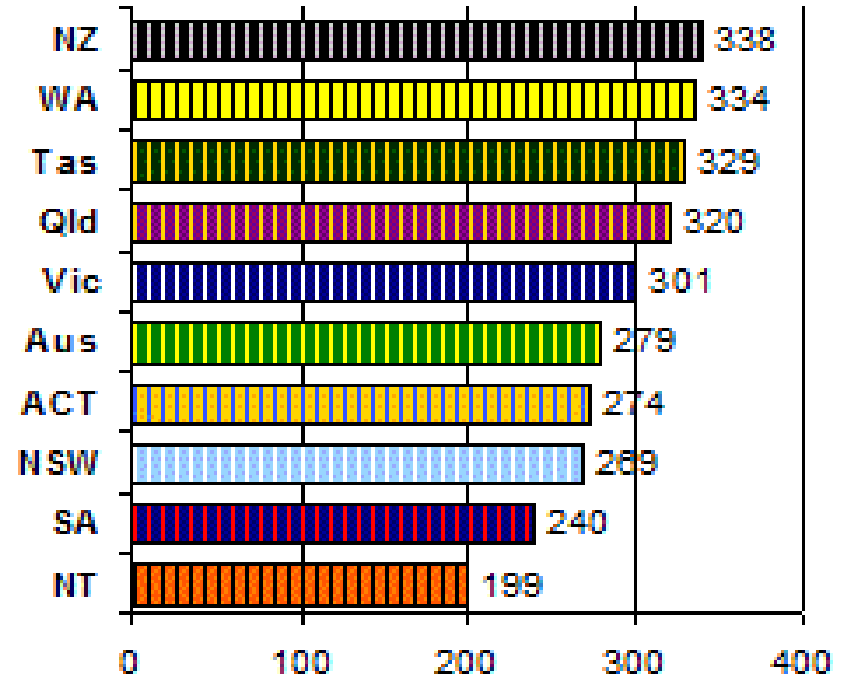
0. Silent or Executive decides -- the legislation is either silent or the factor is under control of the Executive.
1. Parliament consulted -- the Executive is required to consult a Committee of Parliament or leaders of each political party within the Parliament before making a decision about the factor.
2. Parliament veto -- 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. Independent body decides -- 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. Legislation mandates -- the factor is explicitly addressed in the legislation. Any variation would require legislative amendment in Parliament.
10. Constitution mandates -- the factor is embedded in the Constitution and requires a large Parliamentary majority and/or referendum.

Overall findings: independence scores 2009 and 2013

Total Factors Score 2009



Total Factors Score 2013



1. Appropriate statutory framework

We assessed:

- 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

We assessed:

- 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

We assessed:

- **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

We assessed:

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

5. + 6. Reporting

We assessed:

- 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

We assessed:

- 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?

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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>