



Legal and Constitutional Affairs Legislation Committee

Inquiry into the National Integrity Commission Bill 2018, National Integrity (Parliamentary Standards) Bill 2018 and National Integrity Commission Bill 2018 (No. 2)

8 February 2019

Opening Statement by Dr Tom Ioannou, Group Executive Director, Australian National Audit Office

1. Good morning Chair and Committee Members. Thank you for the opportunity to give evidence today.
2. Our submission to the Committee was made against the background that:
 - (a) the Auditor-General is an integral part of the Commonwealth integrity framework, with a mandate extending beyond corrupt conduct to the proper use of public resources; and
 - (b) the Auditor-General would continue to provide assurance to the Parliament on all aspects of entities' efficiency, effectiveness, economy and ethics in their use of public resources, through independent public reporting to Parliament.
3. In that context, we advanced a number of key issues.
4. First, the Commonwealth finance law, including the *Public Governance, Performance and Accountability Act 2013*, should apply to the new entities and functions referenced in the Bills. Under the finance law, the Auditor-General is the external auditor of Commonwealth entities.
5. Second, the Australian National Audit Office (ANAO) as an entity should be subject to the enhanced integrity framework. Any persons in our organisation who decide to act corruptly in the performance of their administrative functions or in the conduct of Auditor-General functions should be investigated by any Commonwealth Integrity Commission.
6. Third, we prefer arrangements that do not weaken the Auditor-General's independent conduct of statutory functions or reporting to Parliament. For example, we wish to avoid a situation where the Auditor-General may be required to stop an audit or review activity if another integrity agency is undertaking an investigation or is considering doing so. We also wish to avoid a circumstance where the Auditor-General is required to negotiate on the contents of reports to Parliament. Collaborative

mechanisms enabling the new office holders to bring any concerns they may have to the Auditor-General's attention are a workable alternative.

7. Finally, we also prefer the adoption of collaborative rather than coercive arrangements for the disclosure of information collected in the course of performing Auditor-General functions, such as audits.
8. As noted in our submission, we wish to preserve the confidentiality of information collected from the executive government and third parties until the Auditor-General's reports are presented to the Parliament, and in the interests of providing due process and natural justice.
9. We believe it is important to avoid a situation where the ANAO is used as a convenient 'back door' to collect information which other elements of the integrity framework could obtain directly from the original owners of that information. That approach would undermine the integrity and confidentiality of the audit process. In any case, if we were asked to disclose, say, Defence information, we would consult with the Department of Defence before doing so.
10. We also believe it is important to avoid the premature disclosure of audit findings and potential recommendations, before the Auditor-General has considered the relevant evidence, formed an independent conclusion and reported to Parliament. As noted in our submission, ANAO processes are iterative and our understanding of evidence may evolve in the course of an audit. It is not uncommon for early concerns and issues to be clarified and resolved as a result of further testing and analysis of audit evidence.
11. In summary, we welcome any enhancement of the Commonwealth integrity framework. It is a system of which we are a part. The ANAO as an entity should, if necessary, be subject to scrutiny and investigation under that framework. But it should not be used as a conduit for investigating others through the use of coercive information gathering powers applying to the Office of Auditor-General.
12. We believe it is possible for all elements of the framework to co-exist and effectively perform their respective functions. The Auditor-General has a wide mandate, but the ANAO is not an investigatory body and we typically refer issues of misconduct and/or corruption to the attention of relevant investigatory authorities. We would do so following the establishment of any Commonwealth Integrity Commission. A collaborative approach to information disclosures, based on considerations of public interest, would enable the Auditor-General to assist the proposed Integrity Commissioner and other office holders while continuing to serve Parliament well, as an independent Officer of the Parliament.
13. I would be happy to answer any questions the Committee may have.