

Your ref:
Our ref: 12538
Paul Christensen, 3149 6038

OFFICIAL

23 March 2022

Emeritus Professor P Coaldrake AO
Review of culture and accountability in the Queensland public sector
PO Box 12263
GEORGE STREET QLD 4003

review@coaldrakereview.qld.gov.au

Dear Professor Coaldrake

Review of culture and accountability in the Queensland public sector

Thank you for the opportunity to provide a submission for consideration in your review of culture and accountability in the Queensland public sector.

The Auditor-General, supported by the Queensland Audit Office (QAO), is a key integrity agency and integral to the financial accountability and performance of the Queensland public sector. As the parliament's independent auditor of Queensland's state and local government public sector entities, maintaining our independence is paramount. Accordingly, my submission (attached) focusses on:

- opportunities to strengthen my independence through the *Auditor-General Act 2009*
- opportunities to enhance interactions between integrity agencies.

I would, however, be happy to discuss or provide further information on any other matters relevant to your terms of reference.

Please contact me if you would like any further information on my submission or other matters or have your officers contact Paul Christensen on 3149 6038 or paul.christensen@qao.qld.gov.au.

Yours sincerely



Brendan Worrall
Auditor-General

Enc.

cc: Mr L Power MP, Chair, Economics and Governance Committee
The Honourable A Palaszczuk MP, Premier and Minister for the Olympics
The Honourable C Pitt MP, Speaker of the Legislative Assembly
Ms R Hunter, Director-General, Department of the Premier and Cabinet

Review of culture and accountability in the Queensland public sector

Submission by the Auditor-General, March 2022

Opportunities to strengthen the independence of the Auditor-General

QAO has previously identified 25 opportunities to strengthen its independence through amendments to the *Auditor-General Act 2009* (AG Act). We included these in a submission to the former parliamentary Finance and Administration Committee's (FAC) 2013 inquiry into the Queensland Auditor-General's independence. We identified these opportunities through:

- recommendations by the Electoral and Administrative Review Commission (EARC) in 1991
- recommendations from strategic reviews of QAO in 1997, 2004 and 2010
- the 8 principles of independence declared in 2007 by the International Organization of Supreme Audit Institutions (INTOSAI).

QAO's submission to the FAC noted that while the Auditor-General's audit mandate is strong and I cannot be directed on how I conduct audits, opportunities exist for the executive government to exert influence over the financial and human resources available to me. Independence would be greatly enhanced if responsibility for these areas were aligned with the Speaker of Parliament and appropriate parliamentary committee, rather than the Premier.

This is consistent with a 2020 audit by the NSW Auditor-General that found its government's approach to funding integrity agencies presents independence threats and does not sufficiently recognise that the roles and functions of integrity agencies are different to other agencies.

The FAC inquiry concluded in 2016 without the committee making any recommendations. The 2017 strategic review of QAO, however, made several recommendations aimed at enhancing the Auditor-General's independence including:

- providing the Auditor-General with greater autonomy in the employment of QAO staff
- identifying the Auditor-General as an independent Officer of Parliament
- removing the requirement to obtain the Treasurer's approval of basic rates of fees.

The reviewers also recommended the Auditor-General's independence be strengthened in line with the opportunities identified in QAO's submission to the FAC inquiry.

I have continued to promote and pursue these changes through my office's annual reports and by engaging with parliament's Economic and Governance Committee and the Department of the Premier and Cabinet. The only amendment to the AG Act, however, occurred in 2019 when s.53 was amended to enable sharing of protected information with the Treasurer and Queensland Treasury. The Treasurer tabled this amendment in parliament without my input or knowledge and after limited in-principle consultation.

In a 2020 survey of the independence of Auditors-General in Australia and New Zealand, Queensland's rank fell to 6th out of 10 jurisdictions (previously 3rd) because this amendment made QAO more vulnerable to executive influence.

More information on the opportunities to strengthen my independence is included in Appendix 1.

Opportunities to improve interaction between QAO and other integrity bodies.

While QAO has a strong relationship with other integrity bodies, limitations exist in our ability to actively share information. While s.53 of the AG Act permits sharing of protected information with the Crime and Corruption Commission (CCC), there is no equivalent exemption for QAO to share protected information with other integrity bodies. Similar limitations exist within the enabling legislation of other integrity bodies (e.g. Ombudsman).

Recently I was also made aware of potential limitations on sharing information with the CCC about suspected corrupt conduct involving government owned corporations.

Appendix 1

Opportunities to further strengthen independence

The following table represents the opportunities to strengthen the Auditor-General's independence. This is as included in QAO's submission to the FAC inquiry into the legislative arrangements assuring the Queensland Auditor-General's independence.

Each opportunity is classified against one of the 8 principles of auditor independence established by INTOSAI. They are also classified based on whether they:

- symbolically reflect the relationship between the Auditor-General and the Parliament
- substantively enhance the functional and organisation independence of the Auditor-General
- clarify the existing audit mandate of the Auditor-General
- provide for the administration of the QAO.

INTOSAI Principle	Area of Independence	Nature
Principle 1 - The existence of an appropriate and effective constitutional/statutory/legal framework		
1. Recognising the Auditor-General as an 'independent officer of the Parliament' in the AG Act.	Role and status of the Auditor-General and relationship with the Parliament	Symbolic
2. Requiring the Auditor-General and Deputy Auditor-General to take an oath of office administered by the Speaker or, if there is no Speaker or the Speaker is unavailable, the Clerk of the Parliament.		Symbolic
3. The Queensland Independent Remuneration Tribunal determining the remuneration and allowances to be paid to the Auditor-General. This would also need to be recognised in the Queensland Independent Remuneration Tribunal Act 2013.		Substantive
4. The Auditor-General being entitled to take leave upon giving notice to the Speaker or the Chair of the parliamentary committee, rather than requiring the approval of the Minister.		Substantive
5. The parliamentary committee appointing the strategic reviewer and deciding the terms of reference for the review under Part 4 of the AG Act.		Substantive
6. Requiring the strategic reviewer to provide their report on the review directly to the parliamentary committee, rather than the Minister.		Substantive
Principle 2 - The independence of SAI heads and members (of collegial institutions), including security of tenure and legal immunity in the normal discharge of their duties		
7. Requiring the parliamentary committee to manage the selection and appointment process for the position of Auditor-General.	Role and status of the Auditor-General and relationship with the Parliament	Substantive
8. Requiring the Auditor-General to be appointed by Governor-in-Council on address by the Legislative Assembly.		Symbolic
9. Restricting the Auditor-General's employment in the public sector for two years after their term.		Substantive
10. Recognising in the AG Act that a person acting in the role of Deputy Auditor-General may also act as Auditor-General in the absence of both the Auditor-General and Deputy Auditor-General.		Administrative

INTOSAI Principle	Area of Independence	Nature
Principle 3 - A sufficiently broad mandate and full discretion, in the discharge of SAI functions		
11. Clarifying the Auditor-General's mandate for auditing trusts created and/or used by public sector entities in performing their functions.	Mandate and powers provided to the Auditor-General	Clarification
12. Amending the AG Act to enable Parliament to request but not require the Auditor-General to conduct audits of matters relating to the financial administration of public sector entities.		Substantive
13. Providing the Auditor-General with the discretion to initiate performance audits of government owned corporations.		Substantive
14. Reviewing other Queensland legislation to ensure any requirements for the Auditor-General to conduct audits are consistent with the discretion provided to the Auditor-General under the AG Act.		Substantive
Principle 4 - Unrestricted access to information		
15. Identifying that the Auditor-General's powers to access information is not limited by any rule of law relating to legal professional privilege. Disclosure of information to the Auditor-General should not otherwise affect the operation of the rule of law relating to the privilege.	Mandate and powers provided to the Auditor-General	Substantive
16. Giving the Auditor-General discretion in deciding whether to make information available to a commission of inquiry.		Substantive
Principle 8 - Financial and managerial/administrative autonomy and the availability of appropriate human, material, and monetary resources		
17. Establishing the Auditor-General as a corporation sole under the AG Act.	Administrative autonomy of the office of Auditor-General	Substantive
18. Establishing the Auditor-General as the employer and employing QAO staff under the AG Act and not the Public Service Act.		Substantive
19. Giving the Auditor-General authority to appoint the staff necessary to exercise the Auditor-General's functions.		Substantive
20. Enabling the Auditor-General to determine the remuneration and other terms and conditions for the appointment of QAO staff.		Substantive
21. Involving the parliamentary committee in the process for setting the QAO's budget, including: <ul style="list-style-type: none"> - requiring the Auditor-General to provide the annual estimates for the QAO to the parliamentary committee - the estimates being considered by the parliamentary committee and tabled in Parliament with such modifications the committee thinks fit - including the annual estimates for the QAO in the Appropriation Bill for the Parliament - adopting the same process for any supplementary funding requested by the Auditor-General during the year. 		Substantive
22. Removing from the AG Act the requirement for the Treasurer to approve the basic rates of audit fees.		Substantive
23. The Auditor-General providing the QAO's annual report to the Speaker or Clerk for tabling in Parliament, instead of to the Minister.	Role and status of the Auditor-General and relationship with the Parliament	Symbolic
24. Appointing the external auditor of the QAO by resolution of the Parliament on the recommendation of the parliamentary committee.		Substantive
25. Requiring the external auditor of the QAO to report on the results of audits performed directly to Parliament or to Parliament through the parliamentary committee.		Substantive

Appendix 2 Links

Links to documents referred to in my submission are in the below table.

Legislation	<u>Auditor-General Act 2009</u>
QAO	<u>Annual reports</u>
Strategic Review of QAO (Latest)	<p><u>Report</u>, March 2017</p> <p>Finance and Administration Committee <u>Report 51</u>, <i>Consideration of the recommendations of the strategic review of the Queensland Audit Office</i>, October 2017</p> <p><u>Interim government response</u>, January 2018</p> <p><u>Government response</u>, April 2018</p>
Economics and Governance Committee Oversight of the functions of the Auditor-General	<p><u>28 March 2022</u></p> <p><u>March 2021</u></p> <p><u>April 2020</u></p> <p><u>February 2019</u></p>
Finance and Administration Committee Inquiry into legislative arrangements ensuring the Auditor-General's independence	<p><u>Inquiry</u></p> <p><u>Finance and Administration Committee Report</u>, June 2016</p> <p><u>Public hearing transcript</u>, 5 March 2014</p> <p><u>Public hearing transcript</u>, February 2014</p> <p><u>QAO submission</u>, October 2013</p>
Other	<p>ACAG, <u>Independence of Auditors General (A 2020 update of a survey of Australian and New Zealand legislation)</u>, March 2020</p> <p>Audit Office of NSW, <u>The effectiveness of the financial arrangements and management practices in four integrity agencies</u>, October 2020</p> <p><u>Electoral and Administrative Review Commission reports</u></p> <ul style="list-style-type: none"> <u>Report on Review of Public Sector Auditing in Queensland Serial No. 91/R3, September 1991</u> <p>INTOSAI, <u>The Eight Pillars of Supreme Audit Institution Independence</u></p>