Beyond Fragmented Governance in the Commonwealth Public Sector

Conference on
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1. Introduction

- I am delighted to be here today to speak on the topic of “Beyond Fragmented Governance” in the Commonwealth public sector. My delight is partly occasioned by the fact that the Commonwealth is doing something significant to address the issue of fragmentation. That makes my task a lot easier!

- The potential for fragmentation is always present in modern (and, I suspect, ancient) public sectors. In the case of modern ones, this is a reflection of their inherent complexity and diversity – if not so much their size in this day and age of smaller, more streamlined, more nimble government – and the great and growing variety of functions which communities expect their governments to undertake.

- To take but one simple indicator – the Department of Finance and Administration’s (Finance, for short) 2005 List of Australian Government Bodies, which will be published shortly, is expected to be 450 pages long,
and will include the details of over 1,100 Australian Government bodies as at 31 December 2004. The first version of this List – published in June 2004 – took an estimated two years to produce and was the first update since a 1996 list published by the Senate Finance and Public Administration Legislation Committee. That in itself is an indication of the extent of fragmentation in the Commonwealth sector.

- The List captures the gamut of current Australian Government activity and organisational type – including departments of state, ministerial councils, advisory boards, statutory authorities, companies, statutory committees, royal commissions, Commonwealth-State and international bodies. That is quite a collection and just listing them speaks volumes about fragmentation and complexity!

- Moreover, each of these entities was established at differing points in time – extending over several decades – and often using differing design criteria, something that partly explains the diversity in organisational design. Finally, each has its own individual remit and priorities which, in turn, are influenced by its functional responsibilities.

- When we add to this already complex mix the additional overlays of organisational culture, devolved authority and individual leadership style and preferences – both at the Ministerial and organisational level – it is obvious that there is ample scope for fragmentation and inconsistency in the

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Commonwealth’s governance arrangements, processes and agency outputs.
And, believe me, there is!

- In addressing today’s topic, I will focus on two initiatives to promote consistency and combat fragmentation in the Commonwealth’s governance arrangements – at both an organisational level and at a process level. They are the:

  - John Uhrig’s *Review of the Corporate Governance of Statutory Authorities and Office Holders*, and related work; and

  - recent work on “connecting government” by the Australian Public Service’s Management Advisory Committee, or MAC.

- I will also discuss briefly the Australian Government’s efforts to help enhance governance capacity in the Solomon Islands, Papua New Guinea and Nauru. That important work reminds us – should we ever forget it – that good governance is a necessary and key condition for sustained economic growth, economic development and national prosperity.

- The Uhrig review, and the work flowing out of it, is intended to combat bureaucratic proliferation and promote consistency in organisational design through a disciplined application of governance, accountability and financial frameworks.
• The MAC’s recent report on *Connecting Government* sets out strategies for combating fragmentation in policy development, program administration and service delivery, in the interests of securing effective whole-of-government responses to Australia’s priority issues.

• It would be wrong to view these initiatives as simple housekeeping (in the case of Uhrig) or the mere dissemination of good practice (in the case of *Connecting Government*). Both are much more significant.

• As my colleague, Dr Peter Shergold (the Secretary to the Department of the Prime Minister and Cabinet) has emphasised, these two initiatives are manifestations of a process of public service regeneration, which was heralded by the Prime Minister’s November 2004 announcement of the new Department of Human Services and the winding back into Portfolio Departments of four previously independent agencies. These changes were also ‘Uhrig consistent’ and, in my view, ‘Uhrig inspired’.

• At one level, the establishment of DHS was intended to improve coordination across six source delivery agencies and, consequently, improve their responsiveness to government policy direction and improve their service quality. It was Uhrig consistent in that decision-making boards for Centrelink and HIC were to be abolished.

• However, at another level, the creation of DHS was the “first shot in the battle against bureaucratic proliferation”, and was meant to tackle
governance arrangements which are opaque, excessively complex, and incomprehensible.

- At an even deeper level, the creation of DHS was envisaged as a means of helping ensure a whole-of-government approach to both policy making and policy delivery. According to Dr Shergold, “It affirms a commitment to join bureaucracy together, eschew departmentalism and embrace seamlessness.”

- Similarly, the abolition of three Executive Agencies: the Australian Government Information Management Office, the National Oceans Office, and the Australian Greenhouse Office, and one statutory authority Australian National Training Authority, and the winding back of their functions into Portfolio Departments is a sign of both greater consistency and reduced fragmentation. It was definitely Uhrig consistent and inspired in its focus on the pre-eminence of portfolio departments.

2. Uhrig Review - introduction

- Before going any further, it would be useful to give some thought to the Uhrig Review itself.

- The Uhrig Review, announced by the Prime Minister in November 2002, focused on Commonwealth statutory authorities and office holders. This diverse group of entities includes regulators, service providers, research and advisory bodies, registrars, and government companies.
• And there is a lot of them. There are, for example, 86 entities or office holders of various types under our Financial Management and Accountability Act, and 104 entities of various types under the Commonwealth Authorities and Companies Act.

• A key outcome of the review, as sought in its terms of reference, was “the development of a broad template of governance principles and arrangements that the Government may wish to extend to statutory authorities and office holders, and potentially beyond, to a wider range of public sector bodies.

• From the outset, therefore, the review was expected to provide guidance on the more consistent application of governance and financial management frameworks.

• The Government’s response was released by the Minister for Finance and Administration, Senator Minchin, in August 2004. It endorsed the review’s governance principles, and announced an assessment process designed to test whether the governance of existing statutory authorities and office holders was consistent with them.

• At last count, Ministers have scheduled 160 bodies for assessment, with a deadline of March 2006 for the preparation of assessments.

• In addition, the Government announced the establishment of a unit within Finance to advise on the application of appropriate governance and
legislative structures going forward – when establishing new bodies, or reviewing existing ones.

- This work will be complemented by a new Finance publication *Governance Arrangements for Australian Government Bodies*, which will be released shortly.

3. **Uhrig’s recommendations**

- Uhrig proposed, and the Government accepted, two governance templates to be applied to new and existing entities. These are a ‘board template’ and an ‘executive management’ template.

- The board template will generally apply where a body has been delegated full ‘power to act’ by the Parliament and government. As a general proposition, bodies with a commercial or entrepreneurial role can be expected to enjoy a full delegation of power to act. Uhrig argued that governance boards should only be utilised where they can be given the full power to act.

- In contrast, more specialised bodies, which have not been delegated full power to act, should generally be subject to an executive management regime – generally under a chief executive officer.
- This template applies for entities with a relatively narrow set of functions, such as regulators, service providers, research and advisory bodies, and registrars.

- While a governance board is considered inappropriate, there is nothing to preclude the establishment of expert advisory committees to support the CEO, or a group of commissioners to exercise specified statutory powers under the relevant enabling legislation.

- The Government has accepted these two templates as ‘ideals’, which will apply in the majority of cases, recognising that unique factors will sometimes require the variation of the relevant template.

- The Government has also announced that financial frameworks should generally be based on the governance characteristics of a particular body.

- The *Financial Management and Accountability Act* – or FMA Act – should apply where it is appropriate that bodies be legally and financially part of the Commonwealth and where they do not need to own substantial assets. Typically, this would mean Budget-funded entities, and those subject to executive management.

- In contrast, the *Commonwealth Authorities and Companies Act* – or CAC Act – should apply where it is appropriate that bodies be legally and financially separate from the Commonwealth, and are best governed by a board.
• The current assessment process tests the governance of existing bodies against the templates, to determine whether a change in governance or financial framework is required. The process is being led by Ministers, supported by their departments. It is importantly not a process of self-assessment by the entities.

• To date, there has been some useful changes. For example, the responsible Minister has announced that he will wind up the board of the Australian Research Council. In addition, the HIC will be transferred from the CAC Act to the FMA Act, as it is not a commercial entity. There are a lot more coming.

• Where a governance board is considered appropriate, greater consistency in board operations is sought by applying Uhrig’s best practice principles. The principles relate to board size, committees, appointments, tenure, development and performance.

- Significantly, Uhrig argued that all board appointments should be skills-based. He did not support representational appointments, as they can fail to produce independent and objective views. While it is possible to manage conflicts of interest, Uhrig’s preferred position is to not create circumstances where they arise;

- Uhrig also argued that care should be exercised when appointing public servants to boards, and warned that membership of a board by the related
departmental secretary is unwise unless required by specific circumstances.

- Finally, Uhrig proposed that a ‘no surprises’ principle should inform the relationship between statutory authorities or office holders, their Ministers, and government Departments. To this end, Uhrig proposed, and the Government has accepted, the consistent application of two measures.

- The first is that the Government should clarify its expectation of bodies by means of written Statements of Expectations issued by Ministers. These would need to take into account the necessary independence of each body. For their part, bodies will respond to their Minister by way of a written Statement of Intent for approval by the Minister. Both Statements are to be made public by the responsible Minister.

- There is also an expectation of consistent and ongoing ‘parallel communication’ between an entity, its Minister and the Department. The Government has accepted Uhrig’s view that the role of portfolio departments as the principal source of advice to Ministers – on all matters within the portfolio – should be reinforced by requiring entities to provide relevant information to Secretaries in parallel to that information being provided to Ministers.
4. The role of Finance in Uhrig assessments

- The Uhrig assessment process is being co-ordinated by Finance. Going forward, Finance will also advise on the application of appropriate governance and legislative structures when establishing or reviewing entities.

- Both as part of this responsibility, and its ongoing responsibility for the Commonwealth’s financial and governance framework, Finance is seeking to improve the understanding of governance issues in the Commonwealth by regularly publishing both the List of Entities, and by developing Governance Arrangements for Australian Government Bodies, both of which I have mentioned.

- Drawing on Uhrig, Governance Arrangements outlines a number of key principles.

- First, there must be a compelling reason for any activity not to be undertaken by an existing Department or entity.

- Second, budget-funded bodies should operate under the FMA Act. Only bodies that have a persuasive case for a governing board should operate under the CAC Act.

- Third, companies should not be used for conducting government activities unless they operate for profit in a competitive environment, or in order to
facilitate joint ventures between the Commonwealth and the States or the Commonwealth and the private or non-profit sector.

- Fourth, Commonwealth representation on a company board by a public servant, and particularly a Secretary, is not usually appropriate due to the risks associated with such appointments.

- Finally, no new body should be established, or an existing body varied, without consulting Finance on behalf of the Minister for Finance and Administration on legal and governance issues.

- As with the Uhrig review and assessment process, this initiative is intended to promote greater consistency in governance arrangements across the Commonwealth and should provide another strong platform for informed discussion on the merits of alternative governance structures.

5. Good governance in the Pacific

- The Commonwealth’s interest in improving governance isn’t confined to the Commonwealth public sector. The Australian Government has recently taken initiatives to help improve governance in South Pacific countries because it considers improved governance a necessary condition for sustained economic growth and development in Solomon Islands, Papua New Guinea and Nauru.
As part of Australia’s $840 million contribution to the Regional Assistance Mission to Solomon Islands (RAMSI), Australia is currently making available 17 officials to work in both in-line and advisory positions in the Solomons Government to rebuild and implement financial governance arrangements and implement economic reform. The three Finance officials in this group are contributing to the Financial Management Strengthening Program, whose 2005 priorities include budgetary reform and rebuilding and reform of the financial machinery of government.

Similarly, the $1.1 billion Enhanced Cooperation Package agreed for PNG in 2003, includes $300 million for priority initiatives to strengthen key institutions, including those associated with governance and economic management.

This involves 43 Australian Government officials working in advisory positions in PNG Departments and Agencies. Finance has nine officers in the PNG Treasury and Finance Departments.

Just as governance issues are important in Australia at Commonwealth and State level, so they are important in developing economies.

Without improved governance there is little hope for sustained economic growth and development in Pacific Island economies.
6. Connected government as helping prevent fragmentation

- I will turn now to the Management Advisory Committee’s 2004 report *Connecting Government: Whole of Government Responses to Australia’s Priority Challenges*. This directly addresses some of the consequences of necessarily ‘diverse’ government and is intended to help prevent fragmentation.

- It does so by encouraging and providing templates for greater coordination in policy advice, program management and service delivery.

- For the purposes of the MAC report, ‘whole of government’ denotes public service agencies working across portfolio boundaries to achieve a shared goal and an integrated government response to particular issues. Whole of government approaches can be formal and informal, and they can focus on policy development, program management and service delivery.

- Put another way, the report focuses on the more effective horizontal management of government activity. The key drivers for this need are well known, and include:

  - increasingly demanding citizens;
  
  - new information and communications technologies;
  
  - continuing pressure on public sector budgets;
- experimentation with new ways to deliver services; and
- greater recognition of the complexity of particularly social problems and the range of expertise from different institutions and sectors required to tackle them.

- For the Australian Public Service, this translates into pressures:
  - to offer sophisticated policy advice which comprehends a range of stakeholders’ views, and to rapidly respond to complex policy challenges;
  - to join up program management, including in relation to security threats and difficult and long-established social problems; and
  - for easier access to government by integrating service delivery.

- In preparing its report, MAC systematically considered the structural, cultural and communication factors which can contribute to more effective whole-of-government work.

- The structural factors considered include well-operating co-ordination and decision-making mechanisms such as the central agencies, the portfolio Secretaries as a group, inter-departmental committees and taskforces. An important observation is the need to choose bureaucratic structures very carefully when undertaking whole of government work.
• For example, well-run interdepartmental committees are very effective in co-
ordination, including crisis management and the production of policy options. However, the representative nature of IDCs and their usually consensus approach to decision making makes them less useful for dealing with difficult policy issues where there are deep differences in policy between portfolios, or in the community, and where there are necessarily tight time limits for advisers/decision makers.

• In contrast, dedicated taskforces under strong leadership, and working directly to the Prime Minister, a senior minister or a Cabinet committee, are more likely to produce high-quality outcomes in these circumstances.

• Another key observation is that effective whole-of-government work is not just about structures. It is as much about culture. For example, collegiality at the most senior levels of the APS is a key part of fostering a ‘whole of government’ culture from top to bottom.

• Portfolio secretaries and agency heads have a key role to play in this respect. In addition to their monitoring role, it is essential that CEOs actively champion whole of government projects and model critical behaviours such as collegiality. Staff must come to understand that their role is not to defend territory but to seek solutions in the national interest.
• There are also clear implications for recruitment, training and development practices. They should combine to promote the values of co-ordination, co-operation, negotiation and openness.

• While CEOs must provide leadership, there is no doubt that this is a shared responsibility across the senior APS as a whole. Recognising this, the MAC has also released a shorter guide on *Working Together: Principles and Practices to Guide the Australian Public Service*.


• The consistent application of that best practice – much of it highly refined common sense – provides an excellent starting point for combating fragmentation in this area of public administration.

7. Conclusion

• Promoting consistency in governance, and overcoming policy and program fragmentation, are pre-occupations within the Commonwealth public sector.

• The Uhrig review, the assessment of existing entities against the Uhrig governance principles, and the consistent application of sound governance
principles going forward, reflect a determination to regularise the governance of Commonwealth entities.

• It is a significant agenda, which draws a line in the sand regarding past inconsistencies, and promotes greater discipline and consistency going forward. Its importance to the Government was re-affirmed as a key priority for the Government by the Prime Minister as recently as last Friday in his address to the Senior Executive of the APS.

• The work of the Management Advisory Committee is also important, not least because a holistic approach to whole-of-government work requires that attention be paid to cultural as well as structural and operational factors.

• Good structures and processes are a necessary, but not a sufficient condition for success. Intangible factors, such as culture, must also be pinned down if we are to avoid them becoming the ghost in the machine.

• Thank you.

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2 In the case of the ARC, no change is required as it is already an FMA Act agency.