

31 July 2018

Mr David Thodey AO
Chair
The panel for the review of the Australian Public Service
Department of the Prime Minister and Cabinet
PO Box 6500
Canberra ACT 2600

Via upload

Dear Mr Thodey

Independent review of the Australian Public Service

Governance Institute of Australia (Governance Institute) is the only independent professional association with a sole focus on whole-of-organisation governance. Our education, support and networking opportunities for directors, company secretaries, governance professionals and risk managers are unrivalled.

Our members have primary responsibility to develop and implement governance frameworks in public listed, unlisted and private companies, as well as not-for-profit organisations (NFPs) and the public sector. Governance Institute is a national provider of governance training.

We welcome the opportunity to provide feedback on the Independent review of the Australian Public Service and are interested in engaging further with the panel as it continues with its consultations.

Governance Institute has long advocated for good governance practice in the public sector and has developed significant resources and intellectual property in the area of public sector governance. In April 2016 we published our *Governance Principles for boards of public sector entities*. A link to that publication is here; https://www.governanceinstitute.com.au/media/882831/tb_public_sector_governance.pdf. The Principles recognize that for public sector governance, one size does not fit all and are designed to be applicable to the various types of public sector entities that exist.

Governance Institute has a range of Good Governance Guides aimed at the public sector including a publicly available public sector starter pack which includes guidance on the following topics:

- Achieving governance in organisations without boards
- Due diligence for candidates for public sector boards
- Government businesses — delegations of authority
- Issues to consider when recording and circulating minutes of directors' meetings
- Public sector entities — conflicts of interest and related party transactions

The link to this material which is located on Governance Institute's website is: <http://www.governanceinstitute.com.au/resources/good-governance-guides-free-starter-packs/public-sector-starter-pack/>

As part of Governance Institute's commitment to an ongoing improvement of governance practice across all sectors, we conduct research on issues relating to governance practices and trends, and issues arising in governance, risk and compliance.

This research is intended to provide definitive statistical information and trends on governance and risk management practice in Australia that can be used to support calls for legislative or regulatory reform. It is also to report the views of members on important topical issues, so that Governance Institute can advocate on behalf of its members on the development of governance and risk management approaches. Governance Institute, in partnership with our international affiliates, recently conducted a survey on minuting practices. The report on the results of the survey of Australian practitioners, *Survey on the practice of minutes — Report on results*, has recently been released and is available to our members. Please let us know if you would like to be provided with this publication.

We note that the review panel proposes to examine the capability, culture and operating model of the Australian Public Service which will best serve Australia.

Culture, accountability and transparency

Organisational culture is an important aspect of the review. Governance Institute recently partnered with The Institute of Internal Auditors, The Ethics Centre and Chartered Accountants Australia and New Zealand to develop *Managing culture: A good practice guide*. The concepts expressed in the culture guide are equally applicable to the public sector. A link to the publication can be found

here: <https://www.governanceinstitute.com.au/media/882836/managing-culture-good-practice-guide.pdf>

An issue associated with culture which is often not well articulated is accountability. Accountability is one of the key components of governance, along with integrity, stewardship and risk management. The failure of accountability is a common theme when issues arise with both the public and private sectors. Two recent reports are of particular relevance on this point and we commend them to the Panel.

In December 2013 the Victorian Ombudsman presented to Parliament a report on ‘*A review of the governance of public sector boards*’. The report succinctly summarised the governance risks of public sector boards. This report followed years of adverse reports on the performance of some public sector boards in Victoria. The report stated:

“Boards, however, can and do present certain risks to the State. My investigation identified a range of areas of risk to the good governance of boards, including increasingly complex entity structures and governance arrangements; variable understandings and views about the level of autonomy from government granted to boards; the poor availability of data on the number of boards in existence and their cost to the State; and a lack of clarity, or perceived lack of clarity, around internal and external accountabilities.”

The Institute for Government report ‘*Accountability in Modern Government: What are the Issues?*’ UK April 2018 also highlighted how weak accountability increases the risk of failure of public services – whether through financial mismanagement, chronic underperformance or the collapse of services.

The report found patterns of failure repeatedly occurring:

- Ministers and civil servants blaming each other when things went wrong, thereby limiting the chances of lessons being learned and mistakes being avoided in the future. This affected flagship projects such as the rollout of Universal Credit and, more recently, the Windrush immigration cases.
- Ministers not being held to account for decisions even when failures are clearly attributable to them. Ministers responsible for the Metronet contracts and the outsourcing of probation services were never called to explain why they opted for risky, and ultimately wasteful approaches.
- Poor contract management often resulting in wider public services failures, from the millions of pounds lost in the overbilling for prisoner electronic tagging to the problems

with benefit assessments. The recent collapse of Carillion highlights the importance of tackling these issues systematically.

The report argued that the UK's system of accountability was not keeping up with the realities of modern government, leading to repeated failures, harming the public and undermining trust in institutions.

Transparency is closely linked to the issue of accountability. Despite laws about freedom of information, citizens continue to experience difficulty in accessing information held by the public sector.

Governance Institute recommends that in addition to the matters referred to above the review panel consider the following issues in its review:

- Government's role in ensuring that our laws and regulations are treated as important national infrastructure. As such they require ongoing investment to ensure that they maintained to a high standard and are 'fit for purpose'. The public service needs capable and proactive policy leaders to ensure that legislation and regulation is not a handbrake on innovation and productivity in the economy. The public service will need to become more agile in order to respond to rapid and ongoing change.
- The important role which Government plays in ensuring that our laws and regulations are enforced and that our regulatory agencies are appropriately and equitably resourced.
- The importance of taking into account the citizen's experience of Government services and undertaking public consultation (the current consultations surrounding the Modernising Business Registry project undertaken by Treasury are an example of the importance of engaging stakeholders early in change process).
- Government's role in structuring itself and sustaining its institutions to tackle complex multi-sectoral challenges (CAMAC /ACNC are good examples of this).
- Data governance and privacy, particularly in light of the Productivity Commission's *Inquiry Report, Overview and Recommendations, Data Availability and Use*, 31 March 2017.
- Meeting demand for more services in an environment of fiscal constraint.
- The importance of social equity and recognising the needs of diversity, both internal and external, when designing new policies and programs.

We welcome the opportunity to engage further with the review panel and elaborate on any of these issues.

Yours sincerely



Steven Burrell
Chief Executive
Governance Institute of Australia