

REGAINING TRUST AND CONFIDENCE IN GOVERNMENT

FINANCIAL REFORM AS A LONGER TERM DEVELOPMENT AIMED AT IMPROVING PERFORMANCE AND ACCOUNTABILITY: WITH A PARTICULAR FOCUS ON RISK MANAGEMENT

Pat Barrett AO

Quoting a long time colleague, 'Cynicism about public policy is palpable' (Banks, 2014, p.12). It is not difficult to accept that proposition about Financial Reform at this time in the light of the Global Financial Crisis in 2007-2008 and subsequent global economic recession. Moreover, we have also seen a growing trend in the loss of public confidence in governments around the world, no doubt reinforced by these latter events, but also reflecting some disturbing concerns about 'democracy'. It might therefore be expected that substantial enduring financial reform aimed at improving performance and accountability and focussing positively on managing the risks involved in achieving the required outcomes would be welcomed and supported. One risk might be that the electorate is simply 'not interested' - in part, because the citizens are not convinced that the Government is committed or is simply not capable of delivering the stated outcomes. That is the challenge which has to be addressed at the outset by involving all interested parties on an ongoing basis to achieve and maintain credibility in the reform framework and the means of achieving the results specified. It is again an issue of just not what needs to be done but how it is done. The search for the 'Holy Grail' of improved public sector performance and accountability continues.

Keywords: Public confidence; reform; governance; culture; performance; accountability; risk management; relationships; trust.

Introduction and context

This Article builds on my earlier indication of a "New Development" in Australia (Barrett, 2014), which shares a number of initiatives and insights evident in a range of other countries – notably the United Kingdom. Briefly, the Public Management Reform Agenda (PMRA) commenced in December 2010. As the Parliamentary Joint Committee of Public Accounts and Audit (JCPAA) recently indicated, '--the PMRA, with the Public Governance, Performance and Accountability Act (PGPA Act) as its cornerstone, is a broadly integrated package of reforms to the Commonwealth's (that is, the National Government's) resource management framework' (JCPAA, 2014, p.2). The objectives of the initiatives are extensive but basically stress 'improved productivity and performance of the Commonwealth public sector, a more mature approach to risk across the Commonwealth, and improved quality of information to Parliament and the public' (Ibid., Foreword).

The main focus of this Article is on two of four important guiding principles for both the Reform and the associated legislation - which are that 'performance of the public sector is more than financial: and engaging with risk is a necessary step in improving performance' (Ibid., p.3). The UK Cabinet Office and Treasury identify five principles which apply to the handling of all types of risk to the public, as follows:

- . Openness and transparency

- . Involvement
- . Proportionality
- . Evidence
- . Responsibility

These are 'shared' principles that will be used as a basis for comments on the Australian Reforms. In broad terms, the Review process in Australia concluded that, to manage risk effectively, public sector entities need to achieve efficiencies, be innovative in managing public resources, and anticipate and prioritise potential threats and opportunities. The challenge is how to make these principles and processes a reality.

Progressing the reforms

There can be reasonable confidence about now examining a number of difficult issues that will be central to the success of the Australian Reforms with the relevant legislation being subject to considerable public discussion and Parliamentary examination and coming into effect on 1 July last, along with the first set of Rules (compliance and guidance) – the completion of Stage 1. The process has gone beyond the half way mark and moving to Stage 2 – through to 1 July 2015 – with the focus on raising the quality of planning, performance information and evaluation to improve accountability and then, finally, Stage 3 aimed at improving how the Commonwealth Government engages with external parties to deliver its public policy outcomes (Parliament of Australia, 2014, p.2). In short, the processes of reform are well underway with a time profile of three years for them to be put in place and subject to further Public Service and Parliamentary review.

However, there are both advantages and 'tensions' associated with a phased introduction of the Reforms, the latter not least because of potential lack of clarity between the requirements of ongoing and developing policies and practices during Stages 2 and 3 (ANAO, 2014a). It could be argued that all three Stages should have been completed before the Reforms were introduced. On the other hand, a staged process does give all parties an opportunity to develop and learn from the experience in order to produce a more effective public management framework that should result in greater parliamentary and public trust and confidence. As well, any apparent tensions should diminish as the Reforms are more fully developed and implemented. On the positive side, there is now an apparent firm 'shared' political commitment to the implementation of the reform agenda. Nevertheless, a question has to be asked as to how much have we really learned after decades of Public Sector reform built up from similar approaches to Public Policy and Management based on developments that have been largely globally recognised and similarly addressed.

At the very least, it is difficult to see that the 'political imperatives' have changed all that much which means that any reforms to the public sector have to recognise that 'reality' and promote change in a way that can encourage broad political support and enhance societal improvements that address the changing environment in which we live. Unfortunately, the political time horizon fundamentally continues to be relatively short – ignoring the contrary rhetoric - and therefore not conducive to a focus on the medium to longer term structural and other changes that have been,

and continue to be, experienced in many – if not all – countries. There are exceptions but, even in such cases, there is a tendency to take a series of short term decisions in an endeavour to ameliorate the impact of such changes while prolonged consideration is given to addressing the underlying problem until it often becomes too late for the Government to take effective action. This is a particular situation which bears on the issue of ‘ policy risk ’ which will be addressed later.

We have moved away from the traditional Westminster system of government with greater involvement of the private sector and private sector approaches which, at one stage, was described as the “Washminster “ style of government reflecting the influence of private sector oriented reforms adopted in the United States . For more more than a decade, the focus was on Public Management Reform, certainly in virtually all Western style governments around the world. The British would probably argue that such reforms started with the Thatcher Government from 1979. Undoubtedly they did influence thinking in Australia. While the Jury is probably ‘still out’ on the impact of such Reforms on public sector performance, at least two issues have continued to be hotly debated – Ministerial responsibility and Public Service Independence and Values. I mention these as they are important to the prominence given to, for example, risk management in promoting better Performance and Accountability in the Australian Public Sector (APS).

Establishing a supportive framework of governance

A responsive ‘ Political ’ governance framework is essential for the development of legislation such as the PGPA Act and related Public sector Reforms, as well as for their implementation – a two-way responsibility. Similarly, a complementary role should be played by an ‘ organisational ’ governance framework, more commonly referred to as ‘ corporate governance ’ in the Private Sector. An ongoing reform issue is to determine how better to integrate the two governance frameworks as a means of improving performance and accountability. It has always been too easy to assert that the Government (Ministers) are responsible for Policy and Public servants for the administration and implementation of policy. The naivety of such a ‘ neat ’ dichotomy has long been recognised, at least in the modern era, but unfortunately seldom addressed in a serious manner. It has also been a fertile area for the ‘ blame game ’, where issues about accountability for performance have often been obscured in the public debate. A good example of this in the Australian context was the \$2.6 billion program for housing insulation as part of the then Government’s response to the Global Financial Crisis (Allan Hawke, 2010 and ANAO, 2010). Of particular interest for this Article is the Audit Office comment that ‘The focus by the department on the stimulus objective overrode risk management practices that should have been expected ’ (ANAO, 2010, p.27).

The reform emphasis now on risk management simply highlights the need for greater integration of ‘Policy ’ and ‘ Administration’ in response to the ongoing pressure to improve Public Sector performance and accountability, particularly in making notions such as ‘ shared accountability ’ a reality. This has already become quite apparent in the development of the so-called concepts of ‘Joined-up Government ’, involving cooperation across agency and various levels of government in the delivery of government services . The issue is even more stark with the growing use of ‘ public-private partnerships ’ involving not only just involvement of the Private Sector as a supplier of capital (Public Finance Initiatives) but also as a growing provider of public services in diverse

areas such as construction, transport, information (computing), health and welfare services. The latter developments have been facilitated to a degree by better developed contractual arrangements and procedures over time. Nevertheless, the governance and accountability arrangements have often been quite unclear and subject to ongoing audit and Parliamentary criticism, despite extensive inquiries, parliamentary reviews and better practice guidance over many years. Making the notion of ' earned autonomy' for public sector managers- associated with a greater focus on risk management- a reality, depends very much on ensuring clarity of such arrangements.

Values, ethics and code of conduct

Underpinning governance frameworks in both the Private and Public Sectors is a culture that spells out, and continually reinforces, sound Values and Ethical Behaviours both internally and externally. Indeed, this is now a general public expectation as governance requirements have become more widely understood. In the APS, this requirement is reinforced by a Code of Conduct - prescribed by section 13 of the Public Service Act 1999 (PS Act). The JCPAA noted a significant issue arising during its inquiry relating to the dual coverage of the PGPA Act 2013 and the PS Act (JCPAA, 2014, pp. 49-54). In brief, the Public Service Commissioner argued that each Act sets out alternate statements that seek to regulate behaviour and professional standards of public servants in the APS and which adds complexity and the potential for confusion of APS employees (APSC, 2014,p.4). The Department of Finance argued that the PGPA Act creates a complete scheme around the management of public resources where the duties of officials complement the framework of controls and processes required by Sections 15 to 19 of the PGPA Act. The direct link between this framework and the duties placed on all officials under Sections 25 to 29 of the Act is designed ' to drive the cultural changes needed within entities to, amongst other things, promote effective risk management and performance cultures ' (Department of Finance,2014, p.6). The observation that 'a rule based system should never substitute for a culture of high standards ' (Public Administration Select Committee, 2007) is highly relevant in this context.

A key proposition by Finance is that the PGPA Act applies more precision when it comes to standards of governance, performance and accountability, particularly in relation to the management of resources - in contrast to the PS Act. This raises an important point of principle about the focus and rationale for the Reforms which bears on the question of the underlying imperatives that drive a prescriptive, compliance-based approach and their influence (apparent or otherwise) on a broad principles-based approach and the role of risk management in ameliorating any differences between the two approaches. Converting principles into good practices that are actually consistent with stated objectives and provide a sound basis for their implementation and future development is not a new challenge. It is accepted that the two Acts are complementary and should be consistent in their approach and requirements. While stating that it was ' deeply disappointed to hear that the two largest public sector legislative reforms in recent years have not been developed in tandem ' (JCPAA, 2014,p.88), the JCPAA did not recommend any amendment to the PGPA Act but did recommend that the dual coverage should be rectified as soon as practicable and not wait until the issue is revisited in an independent review of the Act in three year's time. The Public Governance Performance and Accountability (Consequential and Transitional Provisions) Act 2014 amended the Public Service Act 1999 and Parliamentary Service Act 1999 to address this recommendation.

A recent ANAO report observed that ' the success of Australian Government agencies in achieving their objectives is strongly influenced by the effectiveness of governance arrangements, the proficiency and integrity of staff at all levels and the robustness of decisions' (ANAO,2014 b, p.13). While the focus of the Report was on managing conflicts of interest, the wider ramifications of policy coverage and/or practice reflected the importance of dealing with the risks involved to both the public interest and to public trust. Conflicts of interest, according to the ANAO, 'are recognised through the APS ethical framework as a significant public sector risk ' (Ibid., p.15). Indeed, the potential conflicts of interest in many of the 'outside the public sector' relationships increasingly being put in place - involving a wide range of different individuals and groups - represent an inherent risk that has to be effectively managed within a robust governance framework. As with many other aspects of public administration, the concern is not only to identify and manage the ethical risks involved but also any public perceptions of such risks ,' best dealt with promptly and effectively' (Ibid., p. 15). Of interest, in this respect, was the particular emphasis in a Risk leaders Conference last year on ethical behaviour and corporate values which was said to demand an increased risk management focus on cultural risk, particularly as various sectors of the economy look to rebuild public trust (Collins,2013,pp.1-2).

Risk management

While a legislative provision relating to risk management is undoubtedly seen as raising the profile of the approach, there is a question about the achievement of an appropriate balance between process oriented controls and principles-based management of risk. The very use of the term ' rules ' , particularly when they are involve mandatory requirements and guidance, can result in different behaviours in different environments not necessarily relating to, or resulting in, better performance. Nevertheless, the JCPAA expressed confidence that this first stage of the PMRA ' establishes a solid foundation for efficiencies and the framework for cultural change in Commonwealth resource management in future years' (JCPAA, 2014,Foreward,p.vii). The Public Service Commissioner, Stephen Sedgwick, described the current risk management approach as' applying the eyeball solution' where ' we manage risk by building in more checks and balances and by getting more and more senior people (hence ' eye balls') to look at it (Sedgwick, 2013, p.12).

It is perhaps not surprising that managing risk has generally been process oriented with the focus being largely on standards, models and practices – primarily to minimise or even eliminate risk – and often located in audit or finance areas of an organisation. Where a position of Chief Risk Officer had been established, the expectation is that Office would manage risk or, more often, provide advice, training and facilitation in implementing risk models/processes. As governance frameworks developed, those responsible for organisational governance had to assume some kind of overseeing role, at least for providing guidance on so-called " risk appetite ' and organisational priorities. The notion that everyone in an organisation is responsible for risk management has become a 'catchcry ' but hardly a 'reality'. That said, the need for broader responsibility reflects the concern with the situation described by the Public Service Commissioner above, with the consequences that 'compliance costs are rising ; responsibility and accountability are becoming diffused; and work is being done at higher levels ...without necessarily managing risk better. (Ibid., p.13). This is also obviously not consistent with the Reforms' intention to reduce the amount of 'red tape ' , and associated cost and loss of efficiency and effectiveness, involved in program administration. The Commissioner went on to advocate

redesigning risk management models by ensuring greater clarity about work required at each level of an organisation and thereby effectively 'anchoring' devolution of authority (with commensurate responsibility and accountability – my addition).

Managing policy risk

The question has to be asked as to whether Ministers are prepared to be part of the risk management processes as part of the Reforms and, importantly, take part of the responsibility and accountability for the consequences – favourable and unfavourable. If the Reforms are serious about promoting risk management as an important element of improving performance, the focus has to be on both policy and management risks as they are clearly interrelated. The latter are well covered in Better or Good Practice Guides in many countries, including greater clarity about Board responsibilities in both the Public and Private Sectors. The same cannot be said about Government and/or Ministerial accountability for Policy Outcomes, other than in quite broad terms. For example, one test of the latter might be in the Ballot boxes at election time but it would be generally accepted that the various factors determining election outcomes are often due to a potpourri of issues that are not easily determined or simply explained. National Audit Offices are usually precluded from examining, and opining on, policy matters. However, it has often been quite clear in Audit reports, or at least reading between the lines, that program failures, or inadequate performance, have largely been the result of poor policy decisions rather than poor management and/or program delivery.

The five risk principles, identified earlier, stress transparency, involvement of significant stakeholders, consistency, knowledge sharing and 'proper' allocation of responsibility for managing risks. As with other elements of public sector management, these require both top-down and bottom-up processes which need to be integrated as a coherent holistic governance approach. This appears to be the situation in the UK where a Senior Minister is not only responsible for a Department's policy and business but also chairs the departmental Governing Board with Junior Ministers as Members (HM Treasury, 2013, paras 1.5.2 and 4.1.2). As such, it would be expected that the Ministerial (Government) risk appetite/tolerance would be reflected in the organisation's risk management policy and implementation plans. Under the PMRA/PGPA framework, it might be expected such practice would ideally be adopted in Australia, as opposed to the current 'ad hoc' approach to ministerial involvement and responsibility for a Department's risk management approach. The result could be better alignment and integration of policy and administration as well as greater clarity of accountability for each element of a Program's outcomes.

The involvement of Ministers in policy strategy and development, and for overall program outcomes, at the very least implies joint responsibility for higher level policy risk decisions in, hopefully, an integrated risk management framework. The following observation is particularly apt in this respect:

' The Board sets the tone and can foster a climate of trust, developing a culture where staff feel comfortable in openly highlighting risks, which can then be managed without fear or blame. (UK NAO, 2011).

The ' Board ' concept used in the UK is analogous to that in the Private Sector in this respect, albeit with differing legal and operational imperatives. Public sector accountability for Program Outcomes is not effective if risk management is confined solely to processes of implementation (administration) of government policy. Policy and administration are seldom able to be separated in a realistic manner with each impacting on the other, more so if ' learning ' is a genuine aim of a modern public service. Another simple ' reality ' is the difficulty of actually separating ' cause and effect ', which just ' muddies the water ' of accountability for program outcomes.

The important issue is that Ministers need to be involved in the risk management processes as part of good governance, particularly in relation to Policy risk, with the accompanying expectation that implementation risk would be linked back to policy risk for necessary reporting and timely action to produce the results required. Numerous Audit and Evaluation reports across most Western style Governments have shown how the time taken between when a policy issue is determined to when a policy response is actually implemented is crucial to the policy's success. In many cases, the issue originally identified has simply been overtaken by events. More generally, no account seems to be taken of the impact of policy actions and the need to revisit program objectives, outcomes and performance measures. Both policy and management risk need to be effectively addressed on an ongoing basis. For obvious reasons, continuing Ministerial involvement is essential. It also follows that close communication and actual involvement of all stakeholders has to be more than a statement of intent.

Performance and outcomes

The success of Public Sector Reforms at this time is very much dependent on ' Promoting Trust and Confidence in Government ' and ' Making Performance Assessment a Reality '. Both goals are very dependent on the high profile given to risk management in the recent ' principles-based ' Reform Agenda in Australia. Given similar developments in other Western democracies, there may be a shared interest in the development of that Agenda as a means of addressing their particular challenges to public management. While there is an understandable focus on performance assessment/ measurement and Program Outcomes, it needs to be kept in mind that ' Without good process, trust will remain low and policy issues elusive ' (Banks, 2014, p.12).

A complementary concept, shared with the UK in particular over many years, is the notion of ' Evidence-based Policy-Making ' (HM Treasury, 2007). It is axiomatic that the policy-making processes (and those involved) have to be receptive to evidence. Banks outlines a number of examples of policy failures (op.cit., p.4-5) where in those identified - as with other areas of similar failures, ' --the policy ideas were not adequately evidence-based or subjected to sufficient scrutiny ' (ibid., p.5). There would be general agreement that good process is no guarantee of policy success but its absence is typically a symptom of policy failure. Similarly, the absence of credible performance information just adds to public frustration, particularly where there are no apparent improvements as a result of the policy. Without demonstrated improvements in Program performance, there is unlikely to be much, if any, public support for other major elements of the Reforms such as risk management and ' earned autonomy '.

Undoubtedly, there would be a degree of cynicism about the Reform aim to ' get a better balance between control and managing risk '. This will only be achieved if the Government (Cabinet and other individual Ministers) and the Parliament (and its Committees) are fully committed to, and

supportive of, the necessary management processes. In turn, there has to be meaningful demonstration of performance in accordance with the legislative requirement to 'establish and maintain appropriate systems of risk oversight, management and internal control' (Section 16 of the PGPA Act). However, this means both Policy and Management risks have to be addressed. Without the involvement of Ministers, it is difficult to see how the required Program performance and outcomes can be achieved and thus gain the ongoing confidence of all stakeholders in the successful implementation of the Reforms.

That said, most would agree that the 'subjective elements' of much public policy are not conducive to clearcut conclusions (measures) of program success or failure. Even with the development of comprehensive personal opinion (consumer) surveys over many years, the results are often viewed with some scepticism. In Australia, the notion of assessing 'intermediate outcomes' – particularly for programs that can take many years to produce the required results and/or where circumstances can markedly change over time – is one 'practical' way of assessing progress or 'milestones' from one year to the next. Unfortunately, even this approach has not been extensively used by Agencies. Another pragmatic approach was recently suggested as follows:

'... it may be more fruitful to divide out aspects of public policy that can be evaluated separately, so as to specify exactly what has failed or succeeded, in what way, and for whom. In particular, closer attention to distributional consequences as a separate category of analysis can facilitate intensely active agreement on success or failure in policy by describing for whom exactly a policy has been successful and to what degree'. (Newman, 2014).

Concluding comments

As indicated earlier, the crucial second stage of the PMRA to 1 July 2015 will focus on improving the quality of planning, performance information and evaluation within government to 'improve accountability to Ministers, the Parliament and the Public'. This will require strong leadership and commitment within a robust overall governance framework that will restore trust and confidence in government. If risk management is to play a significant role in enhancing performance, ministerial involvement (and accountability) is essential. Hopefully, this will not be 'one bridge too far', based on past experience. Many of the imperatives for the Reforms are a repeat of history. However, implementation of the Public Management Reforms in Australia over the next three years offers another opportunity to those who want to make a difference. In particular, the holistic approach to governance and the greater emphasis on risk management and 'earned autonomy' offer fertile ground for marked improvements in public sector performance which should be pursued with enthusiasm and vigour. A view of the priorities for political and civil service leadership for change, included in a Report by the UK Comptroller and Auditor General, are highly relevant- one in particular is an apt conclusion for this article 'Leading by example, create a culture that expects robust financial, performance and risk information to support every decision' (UK National Audit Office, 2013).

Pat Barrett is a Senior Visiting Fellow at the Australian National University and former Australian Auditor-General.

References

ANAO. (2010), Home Insulation Program. Audit Report No. 12, Canberra, 15 October.

ANAO. (2014a), Submission to the JCPAA Inquiry into Public Governance, Performance and Accountability Act Rules Development. The Parliament of the Commonwealth of Australia. Report 441. Canberra. May, para 4.13, pp.101-102.

ANAO. (2014b), Managing Conflicts of Interest in FMA Agencies – Across Agencies. Report No.47, Canberra, 23 June.

Australian Public Service Commission (APSC). (2014), Submission 7 to the JCPAA Inquiry into Public Governance and Accountability Act 2013 Rules Development. Canberra. p.4.

Banks, Gary. (2014), Restoring Trust in Public Policy: What Role for the Public Service. Australian Journal of Public Administration. Vol 73. Issue 1. March

Barrett, P. (2014), New development: Financial reform and good governance. Public Money & Management, 34, 1, pp.59-66.

Collins, Stuart. (2013), Cultural risk management on the rise as attention turns to ethics. 7 November. <http://www.commercialriskeurope.com/cre/2772/56/Cultural-risk-m...> Accessed on 8 November 2013.

Department of Finance. (2014), Submission 3 to the JCPAA Inquiry into Public Governance and Accountability Act 2013 Rules Development. Canberra. p.6.

Hawke, Allan. (2010), Review of the Home Insulation Program. Canberra. 6 April.

HM Treasury (Government Social Research Unit). (2007), Analysis for Policy: Evidence-Based Policy in Practice. (<http://www.gsr.gov.uk>).

HM Treasury. (2013), Managing Public Money. London. July.

Joint Committee of Public accounts and Audit. (2014), Inquiry into Public Governance, Performance and Accountability Act Rules Development. The Parliament of the Commonwealth of Australia. Report 441. Canberra, May, para 1.7, p.2.

Newman, Joshua. (2014), Measuring Policy Success: Case Studies from Canada and Australia. Australian Journal of Public Administration. Vol. 73. Issue 2. June, p.193.

Parliament of Australia. (2014)

[http://.aph.gov.au/About Parliament/Parliamentary Departments/Parliamentary Library/FlagPost](http://.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/FlagPost). Accessed on 2 July 2014.

Public Administration Select Committee. (2007), Ethics and Standards: The Regulation of Conduct in Public Life. Fourth Report of Session 2006-07. Volume 1. House of Commons. London: The Stationery Office Limited, 29 April, pp.15 and 39.

Sedgwick, Stephen. (2013), Where to now? Thoughts on future public sector reform. CAPAM Regional Conference- Kutching, Malaysia. 29 October.

UK National Audit Office. (2011), Managing risks in government – Good Practice. London, June, p.6.

UK National Audit Office. (2013), Memorandum on the 2012 Civil Service Reform Plan. Report by the Comptroller and Auditor General, HC 915, London: The Stationery Office, 24 January, p.8.