
Corporate Governance Arrangements in Large Government Agencies and Universities (17 Components of Corporate Governance)

During 2008, I conducted a survey on whether 17 key corporate governance components exist in large New South Wales Government agencies and universities. The areas surveyed are detailed on the following pages and were based on the ASX 'Corporate Governance Principles and Recommendations', the Audit Office of New South Wales 'On Board' and the Australian National Audit Office 'Public Sector Governance - Better Practice Guide'.

Corporations that are governed well outperform others.¹ Corporate governance largely focuses on high level systems and processes that direct and control organisations. In simple terms it is the management of management. Good governance improves outcomes and boosts confidence by improving performance and transparency.

I surveyed 50 large New South Wales Government agencies and all ten New South Wales universities. I received 44 responses from agencies and ten from universities. The findings in this report are based on those responses.

CONCLUSION

I found most agencies and universities surveyed have many of the 17 key governance components. There were gaps in:

- key stakeholder communication
- continuous disclosure of performance
- management sign-offs on the adequacy of internal controls
- managing compliance with laws and Government directions
- fraud control.

KEY FINDINGS

Of the agencies and universities I surveyed:

- all had strategic and business plans, with most regularly reporting performance against plans internally
- all agency boards reported having a majority of independent members with appropriate levels of competence and experience. All university councils reported having a majority of independent members, but one reported not having enough legal experience on the council
- all had audit committees and internal audit functions
- all had appropriate CEO or CFO financial report sign-offs
- one agency reported not having a risk management program
- four agencies and two universities did not publish their annual reports on time.

¹ Brown, R. and Gorgens, T. March 2009, *Corporate Governance and Financial Performance in an Australian Context, Australian Government Treasury Working Paper 2009-02*

However, agencies and universities reported only partial or no policies or processes for:

- continuous disclosure of their performance - only three agencies and one university reported adequate practice
- management sign-offs on the adequacy of internal controls - only 15, or one in three agencies, and five universities reported adequate practice
- managing compliance with relevant laws and Government directions - only 24 agencies and three universities reported adequate practice
- managing key stakeholder communications only 27 agencies and seven universities reported adequate practice
- fraud and corruption control - only 30 agencies and eight universities reported adequate practice.

A more detailed summary of the results follows in Detailed Findings.

RECOMMENDATIONS

I recommend large government agencies and universities:

- ensure they have policies to support key stakeholder communication
- develop continuous disclosure policies to provide regular performance information to the public
- implement regular management sign-offs on the adequacy of their internal controls
- establish systems to gain assurance they are meeting relevant laws and Government directions
- ensure they have appropriate fraud and corruption policies and practices.

AREAS SURVEYED

The key areas I surveyed were:

Foundations for management and oversight - (accountability and leadership)

1. Strategic and business plans exist and are provided to key stakeholders.
2. Regular reporting against plans to CEO, Board and Minister.
3. Executive performance evaluation based on achievement of these plans.

Structure the Board - only agencies with Boards - (accountability)

4. Chairperson and majority of members are independent of management.
5. Appropriate range of Board experience and competence.

Ethical and responsible decision-making - (integrity and stewardship)

6. Code of Conduct exists.
7. Fraud and corruption control program exists.
8. Compliance management (procedures are in place to ensure that the agency complies with all relevant laws and government directions).

Integrity in financial reporting - (stewardship)

9. Audit and Risk Committee exists.
10. Internal and external audit exists.
11. CEO and CFO sign-off of financial report.

Disclosure - (integrity and transparency/openness)

12. Annual Report published on time.
13. A continuous disclosure policy exists and is publicly available on the agency's website.

Key stakeholder management - (transparency/openness)

14. Key stakeholder communication plan exists.

Risk management - (accountability)

15. Risk management program in place.
16. CEO and management sign-off on adequacy of internal controls.

Remuneration - only agencies with Boards - (accountability)

17. Board remuneration committee exists.

DETAILED FINDINGS

Compliance with the 17 Components of Corporate Governance

| Governance Component | Universities (10 respondents) | | | Large Agencies - With a Board (20 respondents) | | | Large Agencies - Without a Board (24 respondents) | | |
|-----------------------------------|----------------------------------|----|---------|--|----|---------|---|----|---------|
| | Yes | No | Partial | Yes | No | Partial | Yes | No | Partial |
| Management and Oversight | | | | | | | | | |
| 1. Strategic and business plans | 10 | -- | -- | 20 | -- | -- | 24 | -- | -- |
| 2. Reporting against plans | 9 | -- | 1 | 15 | 1 | 4 | 16 | 1 | 7 |
| 3. Executive performance | 8 | 1 | 1 | 18 | 1 | 1 | 23 | -- | 1 |
| Board Structure | | | | | | | | | |
| 4. Independent members | 10 | -- | -- | 20 | -- | -- | na | na | na |
| 5. Experience and competence | 10 | -- | -- | 19 | -- | 1 | na | na | na |
| Ethical Decision-making | | | | | | | | | |
| 6. Code of Conduct | 10 | -- | -- | 19 | -- | 1 | 23 | -- | 1 |
| 7. Fraud and Corruption Control | 8 | 1 | 1 | 16 | 1 | 3 | 14 | 2 | 8 |
| 8. Compliance Management | 3 | 2 | 5 | 13 | 2 | 5 | 11 | 4 | 9 |
| Financial Reporting | | | | | | | | | |
| 9. Audit and Risk Committee | 10 | -- | -- | 20 | -- | -- | 24 | -- | -- |
| 10. Internal and External Audit | 10 | -- | -- | 20 | -- | -- | 24 | -- | -- |
| 11. CEO and CFO sign-off | 10 | -- | -- | 20 | -- | -- | 24 | -- | -- |
| Disclosure | | | | | | | | | |
| 12. Annual Report | 8 | 2 | -- | 20 | -- | -- | 20 | 4 | -- |
| 13. Continuous Disclosure | 1 | 7 | 2 | 1 | 15 | 4 | 2 | 19 | 3 |
| Key Stakeholder Management | | | | | | | | | |
| 14. Communication Plan | 7 | 1 | 2 | 14 | 2 | 4 | 13 | 3 | 8 |
| Risk Management | | | | | | | | | |
| 15. Risk Management Program | 9 | -- | 1 | 20 | -- | -- | 15 | 1 | 8 |
| 16. Internal Control Sign-off | 5 | 1 | 4 | 4 | -- | 16 | 11 | -- | 13 |
| Remuneration | | | | | | | | | |
| 17. Remuneration Committee | 9 | -- | 1 | 20* | -- | -- | na | na | na |

* seven of these agencies do not require board remuneration committees so they have been included as compliant.
na not applicable.

BACKGROUND

Corporate governance is a relatively new term for what has been around for a long time. It is the high-level direction and control of organisations. A well governed organisation is clear about its purpose, decision-making and appropriate behaviour.

Good governance is those high-level processes and behaviours that ensure an agency **performs** by achieving its intended purpose, and **conforms** by complying with all relevant laws, codes and directions and community expectations of probity, accountability and transparency.

Governance should be enduring, not just something done from time to time.

At the core of good governance is 'doing the right thing' by acting with honesty, impartiality, integrity, trustworthiness, respect for the law and due process. A commitment to ethical values is fundamental.

Governance includes processes and structures that:

- set direction
- manage risk
- ensure compliance with laws, ethical standards and government directions
- manage key stakeholder relationships
- monitor and report performance.

Generally, corporate governance has improved in the public and private sectors, since the very public corporate collapses of the late 1990's and early this decade. However, we still have a way to go.

Public sector governance

At the core of public sector governance is accountability, transparency, integrity, stewardship and leadership.

The governance structures and processes for public sector agencies will vary depending on the entity's nature, size and laws such as its enabling legislation. For example, not all of the 17 components of governance I examined are applicable to every organisation. Three components relate to Boards and are not applicable to many government agencies. They concern Board member independence, experience, competence, and remuneration.

A key issue is whether a component is implemented effectively. For example, the fact that a code of conduct exists is not in itself sufficient. The code must be up-to-date and needs to be 'owned' by all staff in the organisation. Similarly the fact that risk management exists is not by itself sufficient as it needs to be linked to corporate planning and be an ongoing process.

Continuous disclosure

The continuous disclosure component in the survey generated a lot of discussion among CEOs. Some CEOs have suggested that continuous disclosure is purely a private sector concept and has no place in the public sector. Others are of the view that continuous disclosure is different in the public sector. I welcome this debate.

Continuous disclosure in listed companies is about keeping the market informed of events and developments that a reasonable person would expect to have a material effect on the value of a company's securities. The equivalent in the public sector would be a State Owned Corporation keeping the shareholder ministers advised of such events.

At the very least, all government agencies should regularly keep the public aware of the ongoing performance against its key performance indicators. Importantly, the public expects to be kept fully informed on how well their taxes are being spent.

THE WAY AHEAD

In 2009 and 2010 I intend to look more closely at the design and operation of some of the key governance components in large New South Wales Government agencies and universities.