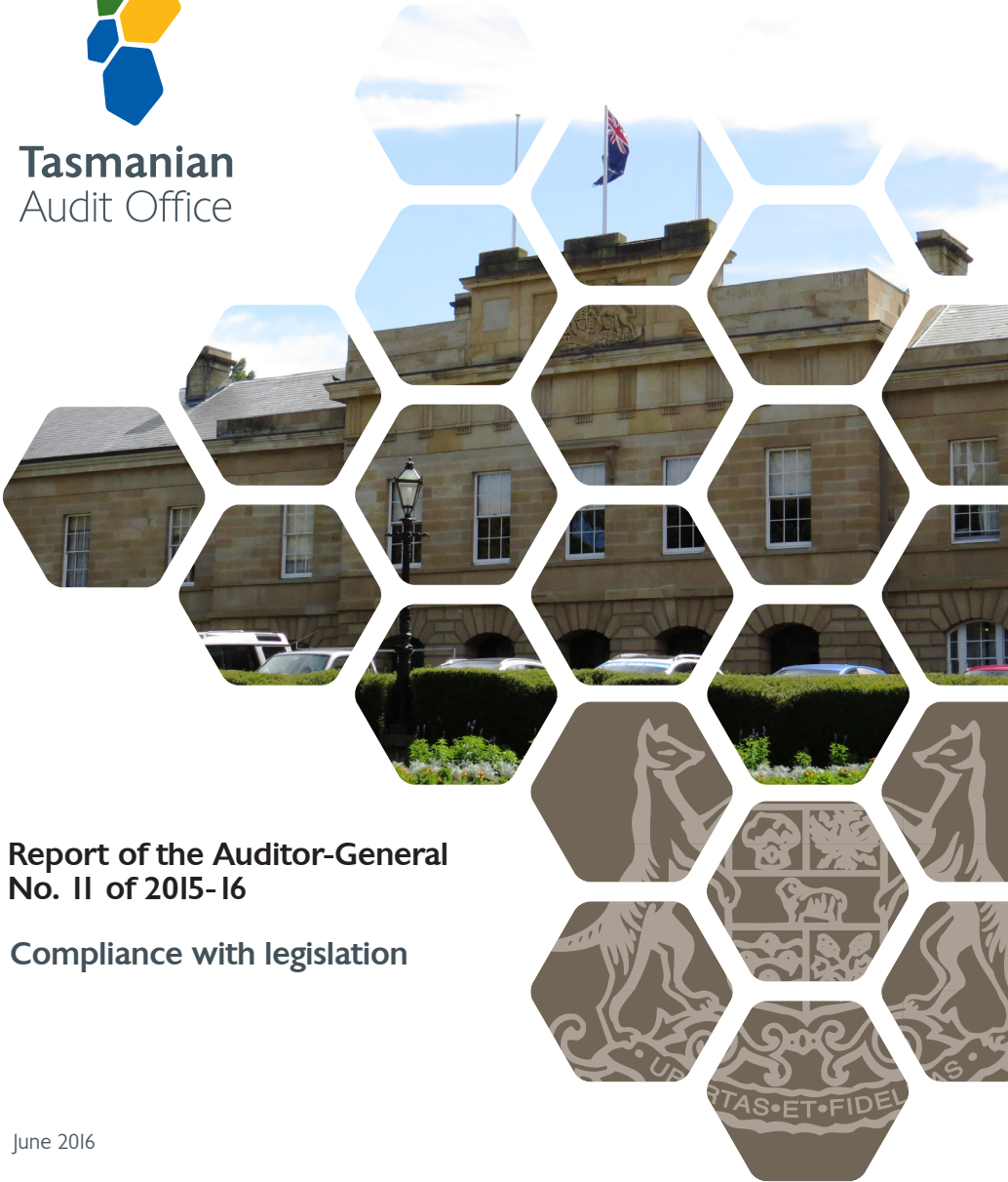




Tasmanian
Audit Office



**Report of the Auditor-General
No. 11 of 2015-16**

Compliance with legislation

June 2016

INTRODUCTION

Legislation is the mechanism by which laws are made, amended and repealed in Australia. Legislation can only be enacted through an Act of parliament. Australia follows the Westminster system of parliamentary supremacy, where legislation legally passed by a parliament must be complied with.

Tasmania, as a state of the Commonwealth of Australia, has had responsible government since 1856, with the power to pass legislation and make laws governing Tasmania. Today, the Tasmanian Parliament is a bi-cameral legislature that annually passes numerous pieces of legislation.

The public sector, which is controlled by the executive arm of government, is required to adhere and enforce laws passed by parliament. There are approximately 2281 enacted Acts of parliament (including amendments) that are implemented and administered by government entities. Because of the vast array of legislation currently enacted there is a risk that state entities may not comply with all applicable legislation.

The audit objective was to express an opinion as to whether or not entities were complying with the implementation and administration of legislation and supporting regulations.

The audit covered the enforcement of selected legislation and supporting regulations by:

- local government councils
- government departments.

We also restricted our examination to the period from January 2011 (previous five years).

AUDIT CONCLUSIONS

These audit conclusions are based on criteria that we developed to support the audit's objective.

Had entities complied with the legislation and supporting regulations, when last relevant?

Councils fully complied with 95 per cent and departments with 91 per cent of our sampled legislation.

Did entities have systems to ensure ongoing compliance?

With few exceptions both departments and councils had effective systems to ensure ongoing compliance with their legislative responsibilities with:

- councils achieving 92 per cent
- departments achieving 89 per cent.

Effective compliance systems generally involved defined responsibilities, the inclusion of review history and next review date on policy documents, use of registers and use of automated reminders.

OVERALL CONCLUSION

In undertaking this audit, we considered what was an acceptable level of compliance. Some would argue that 100 per cent compliance was appropriate, but we recognise that this may not always be achievable due to the:

- level of awareness of legislative requirements
- level of resources available to entities to ensure compliance
- adequacy of systems in place to ensure compliance.

This still leaves the question unanswered. The response may depend on a number of factors such as the consequences of non-compliance and the risk tolerance of entities in dealing with the adverse outcomes of non-compliance.

It is not for us to suggest that anything less than 100 per cent compliance is appropriate. Our expectation is that all entities should examine the systems and processes they have in place to ensure compliance. They should also periodically conduct assessments on the adequacy of those systems to ensure they remain fit for purpose and achieve the overall objective of ensuring compliance with all legislation.

For the full report go to:
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