



Tasmanian
Audit Office

Information Session for Senior Management and Members of Audit Committees

Hobart

20 June 2018

Rod Whitehead, Ric De Santi, Jeff Tongs, Stephen Morrison



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Information Session for
Senior Management and
Members of Audit Committees

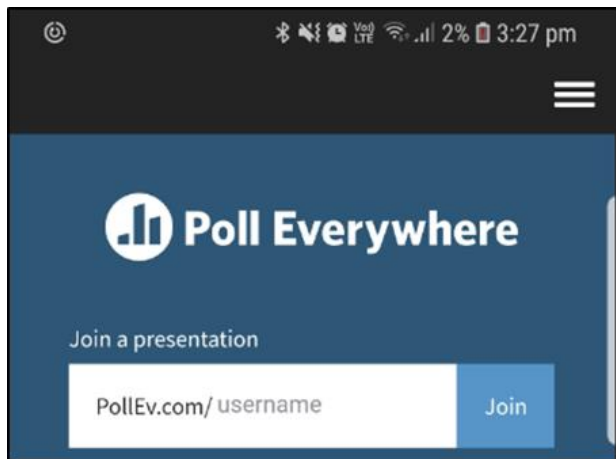
Welcome and opening comments

Program

Time	Topic	Presenter
1:00pm - 1:05pm	Welcome	Rod Whitehead
1:05pm - 1:50pm	Managing conflicts of interest	Richard Bingham, CEO, Integrity Commission
1:50pm - 2:20pm	Standards update and audit findings	Jeff Tongs and Stephen Morrison
2:20pm - 2:50pm	Afternoon Tea	
2:50pm - 3:35pm	Case Studies about Public Sector Corruption	Mark Eady, Executive Manager Corporate and Community Services, Derwent Valley Council
3:35pm - 4:00pm	Contentious accounting issues and TAO matters	Rod Whitehead
4:00pm - 4:45pm	Panel discussion - Composition of audit committees	David Hudson, Tracy Matthews and Phillip Mussared Facilitator: Ric De Santi



Poll Everywhere



Web Browser: Pollev.com/TAO144

App username: TAO144



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Who will win the Super Netball Competition

Adelaide Thunderbirds

Giants Netball

Magpies Netball

Melbourne Vixens

NSW Swifts

Queensland Firebirds

Sunshine Coast Lightning

West Coast Fever

Not sure

Information Session for
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MANAGING CONFLICTS OF INTEREST

Richard Bingham
Chief Executive

June 2018

Officer



‘There is a long history which attaches the characterisation of a public trusteeship to the holders of public office.

In the eighteenth-century case of R v Bembridge, holders of public office were regarded as holding offices of 'trust concerning the public'.

This reflected what Justice Paul Finn has called the 'circuitous route' by which English judges brought public officials 'into a fiduciary relationship with the public.'

**Seventh Annual St Thomas More Forum Lecture
Public Office and Public Trust**

(then) Chief Justice Robert French AC

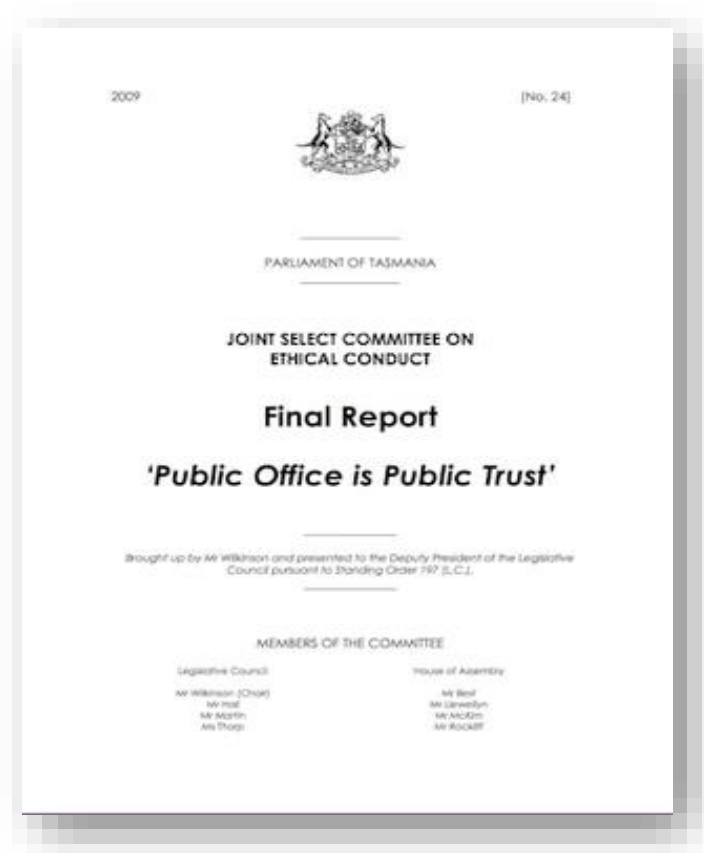
22 June 2011, Canberra



PUBLIC TRUST IS CENTRAL

INTEGRITY
COMMISSION

The genesis of the Integrity
Commission



MANAGING CONFLICTS OF INTEREST

INTEGRITY
COMMISSION

- Acting under the **public trust** means public officers must act **on behalf of the whole community**, not just sectional interests.
- What is **‘reasonable’ is central**: but this is not a ‘pub test’.
- What is reasonable depends **on all the facts** of the particular matter.
- Because we are dealing with **perceptions**, it’s sensible to **err on the side of caution**.



WHAT IS A CONFLICT OF INTEREST?

A conflict of interest is a **conflict** between the **performance of a public duty** and a **private or personal interest**.

‘A conflict of interest issue, involving a person, is an issue about a conflict or possible conflict between a personal interest of the person and the person’s official responsibilities’.

Integrity Act 2009 (Qld), s10(1)



WHAT IS A PERSONAL OR PRIVATE INTEREST?

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- A person's **private, professional or business** interests.
- The interests of individuals or groups with whom a person has a **close association** (such as relatives, friends or even enemies).
- They **may not be pecuniary** – people are not only motivated by money.
- It's **good to have private interests!** They show connections to communities – which is what we want our public officers to have ...



SPECIAL KINDS OF INTERESTS

‘MATERIAL’ CONFLICT

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So as to protect and uphold the public interest, Ministers must take reasonable steps to avoid, resolve or disclose any **material conflict** of interest, **financial or non-financial**, that arises or is likely to arise, between their personal interests and their official duties.

Code of Conduct for Ministers (Tas.) 22 March 2018

A **material conflict** of interest is one that is **significant or important** or one which a reasonable person would think is important to the Minister’s official duties or to a decision to be made by the Minister.

Code of Conduct for Ministers (Tas.) Guidance Notes, April 2014



SPECIAL KINDS OF INTERESTS

PECUNIARY INTEREST

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(1) A councillor or member has an interest in a matter if the councillor or member or a close associate would, if the matter were decided in a particular manner, receive, have an expectation of receiving or be likely to receive a pecuniary benefit or pecuniary detriment.

Local Government Act 2009 (Tas.), s49(1)



OFFICIAL RESPONSIBILITIES

WHAT ARE THEY?

- It's important to understand exactly what these are in the circumstances of each case, eg:
 - do they involve decision-making?
 - do they involve giving advice?
 - what influence might the person have?
- These types of factors are relevant to what's reasonable in the particular circumstances.



THREE TYPES OF CONFLICT OF INTEREST

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- **Actual** – there is a conflict between an official duty or responsibility and a personal interest
- **Perceived** – a reasonable person, knowing the facts, would consider that a conflict may exist, whether or not this is the case
- **Potential** – a personal interest could conflict with official duty or responsibility in the future



CONFLICT OF INTEREST HIGH RISK AREAS

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Recruitment

Grants and permits

Regulatory functions

Procurement

Gifts and benefits

Secondary employment



It's not a problem if a conflict arises ...

- But conflicts must be managed.
- And this means more than just declaring them – though that's a good first step.
- It's best if declaration of interests is systemised, and doesn't just rely on individuals.
- A personal view:
Declarations should relate to the relevant official duty – they are of limited value if there's no official duty to be exercised.



The six Rs

RECORD

RESTRICT

RECRUIT

REMOVE

RELINQUISH

RESIGN



Don't rest yet

- It's important to **monitor** the selected strategy, and to keep it under review because **circumstances can change**.
- Remember that **we are dealing with perceptions**.



ETHICAL LEADERSHIP IS EFFECTIVE LEADERSHIP

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‘There’s no shortage of studies to show that the more integrity we think our leaders have, the more effective we find them as well.

Even more importantly, the behaviours that ethical leaders demonstrate are those that we all now recognise as effective behaviours as well.’

Associate Professor Michael Macauley
Victoria University, NZ



ESSENTIAL TO ENSURING TRUST IN GOVERNMENT

INTEGRITY COMMISSION



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Standards Update and Audit Findings

Jeff Tongs and Stephen Morrison

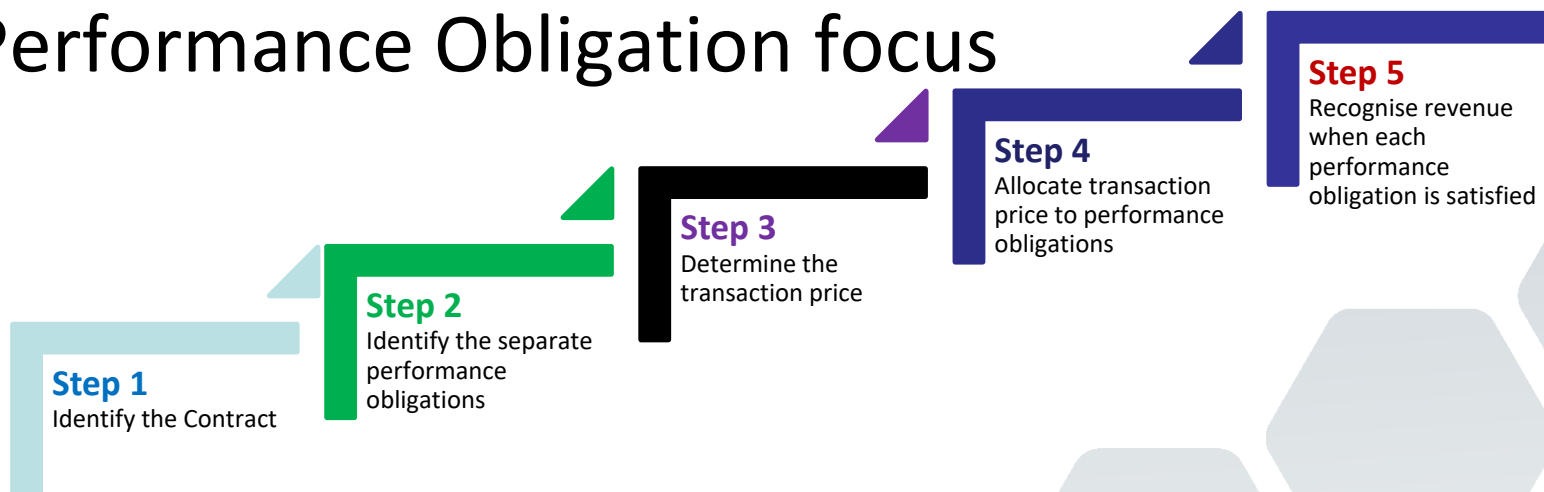
Reporting in 2017-18

- New Financing Activity Disclosures in the Statement of Cash Flows
 - New reconciliation of balances required
- Gov't Bus' Remuneration Template updated
 - Improved incentive, performance and termination disclosure requirements
- Related Party Disclosures
 - Prior year went well
 - Continue to further improve disclosure process

Looking Further Forward (AASB15)

Revenue from Contracts with Customers

- Applies:
 - For-Profit entities - 1 Jan 2018 (30 June 2019)
 - Not-For-Profit entities – 1 Jan 2019 (30 June 2020)
- 5 Step Model for revenue recognition
- Performance Obligation focus



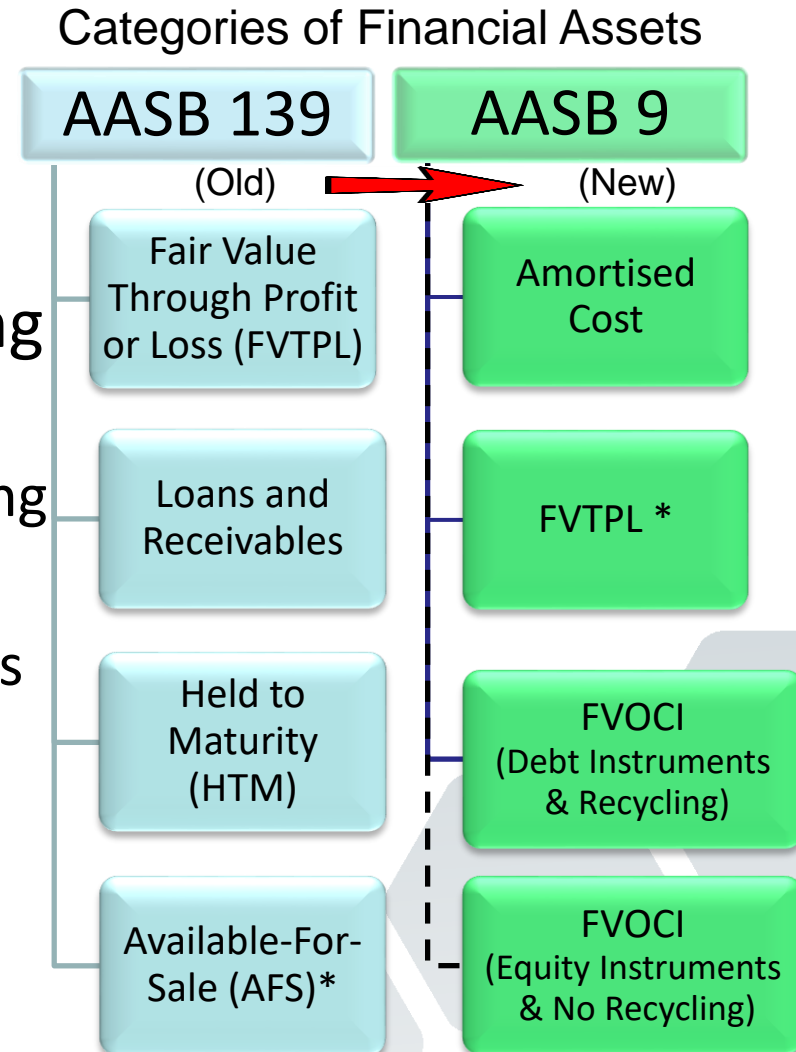
Looking Further Forward (AASB1058) Income for Not-For-Profit Entities

- Applied with AASB 15
- Deals with:
 1. Transactions where consideration to acquire an asset is significantly less than fair value, principally to further NFP objectives
 - Grants
 - Non-contractual statutory income
 - Peppercorn leases
 2. Receipt of volunteer services.

Looking Further Forward (AASB 9)

Financial Instruments

- Applies: - 1 Jan 2018
(30 June 2019)
- Simplifies the model for classifying and recognising financial assets
 - entity's business model for managing the asset
 - contractual cash flow characteristics
- Impairment
 - Expected credit loss model



Looking Further Forward (AASB 16)

Leases

- Applies: - 1 Jan 2019 (30 June 2020)
- Leased assets and liabilities to be recognised on the Balance Sheet
- measured at the present value of unavoidable lease payments
- Leased/Right-of-use Asset (Depreciated)
- Lease Liability (Lease & Finance Exp)

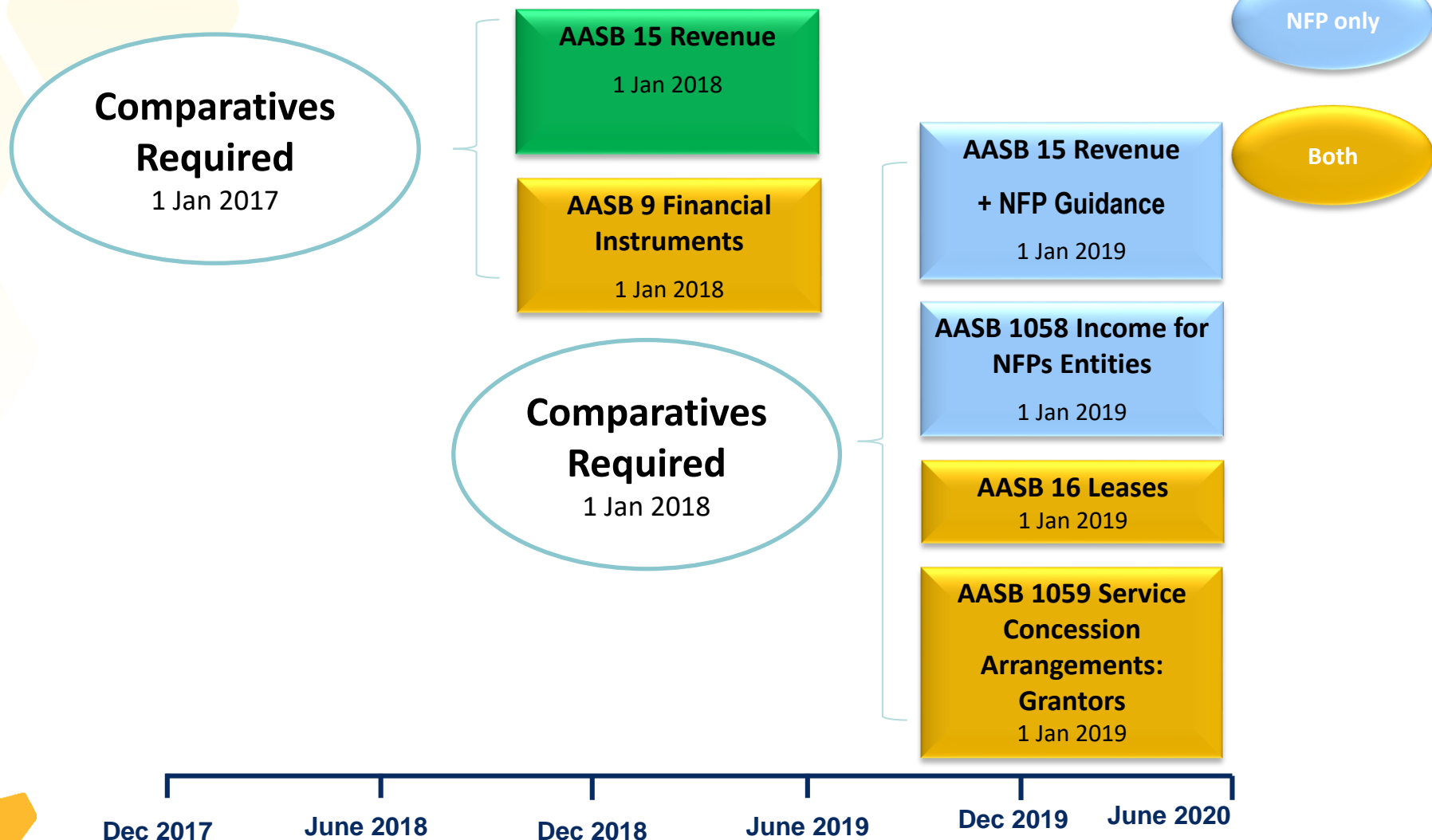
Looking Further Forward - Transition Implementation of Pending Standards

All pending standards are “Retrospective”

Two Approaches:

- Fully Retrospective (some relief)
 - Restate prior year
 - Prior year adjustment to opening equity
- Partially Retrospective with Cumulative Effect
 - Do not restate prior year
 - Adjust opening balance of current year equity (some relief)

A crowded timeline!



Dates: reporting periods beginning on or after date. E.g. 1 Jan 2017 = 31 December 2017 or 30 June 2018 reporting date.

Do you think management have provided you with enough information on the new accounting standards?

Yes

No

Public Sector Readiness

Focus - Impacts of new standards to Public Sector
(Revenue / Financial Instruments / Leases)

- Observations included:
 - lack of understanding, non-engagement or boiler plating with short inadequate comments
 - a high proportion were “yet to assess” the impacts
 - discussions of likely impacts were generally poor
 - assessments stating “no expected impact” was contrary to financial statement disclosures

Outcome – Entities need to revisit assessments.

Developments in Financial Reporting

International Accounting Standards Board (IASB)

- Issued new Conceptual Framework (March 2018)
 - Applies on or after 1 January 2020
- ‘Reporting entity’ concept change
- Implications for Australia
 - No more Special Purpose Financial Statements?
- Australian Accounting Standards Board (AASB) need to align Australian reporting requirements

Australia is the only country in the world to have this problem





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**Report of the Auditor-General
No. 9 of 2017-18**

Auditor-General's Report on the
Financial Statements of State entities

Volume 4

State entities 30 June and 31 December 2017

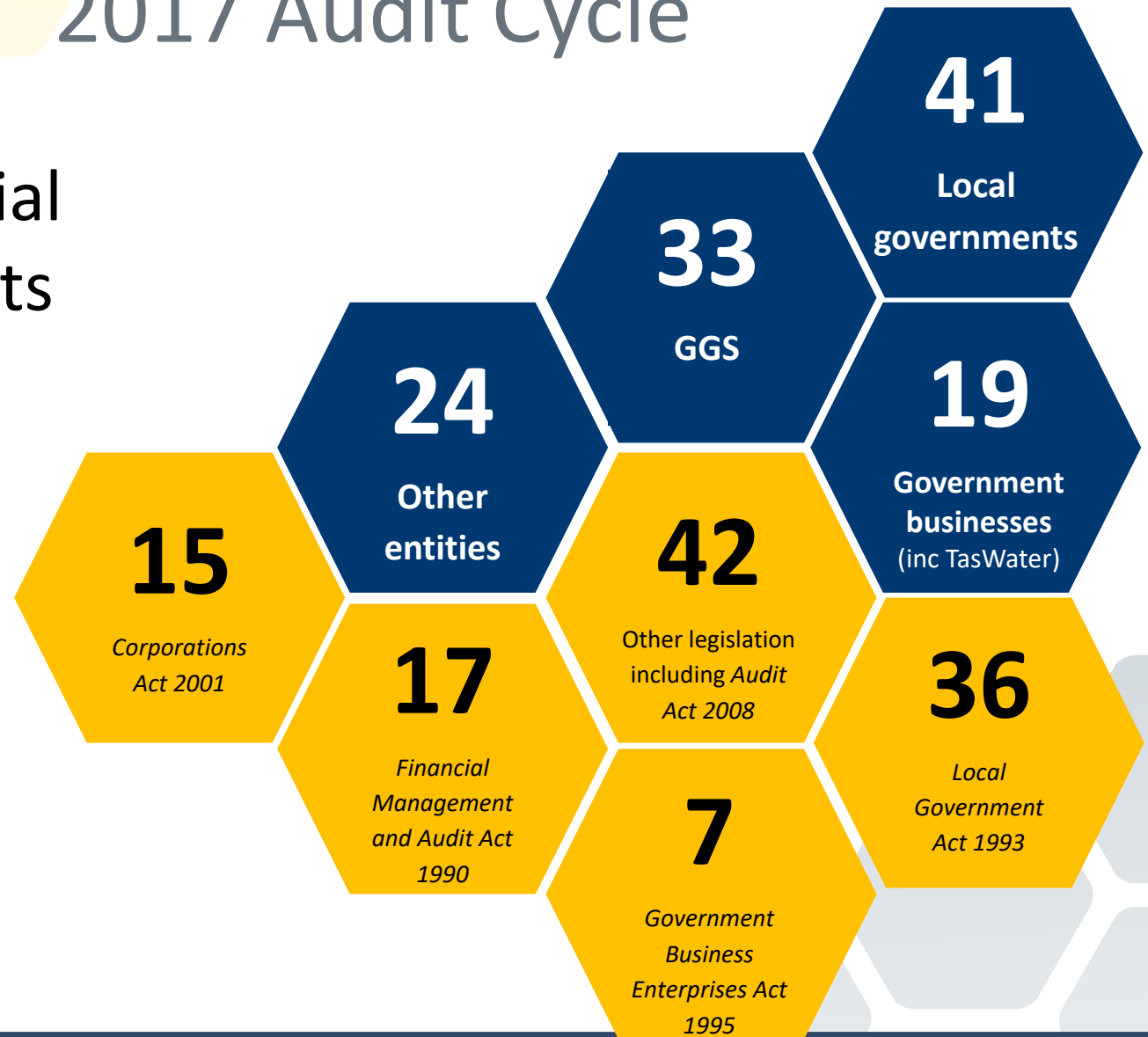
June 2018



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2017 Audit Cycle

Our financial
audit clients



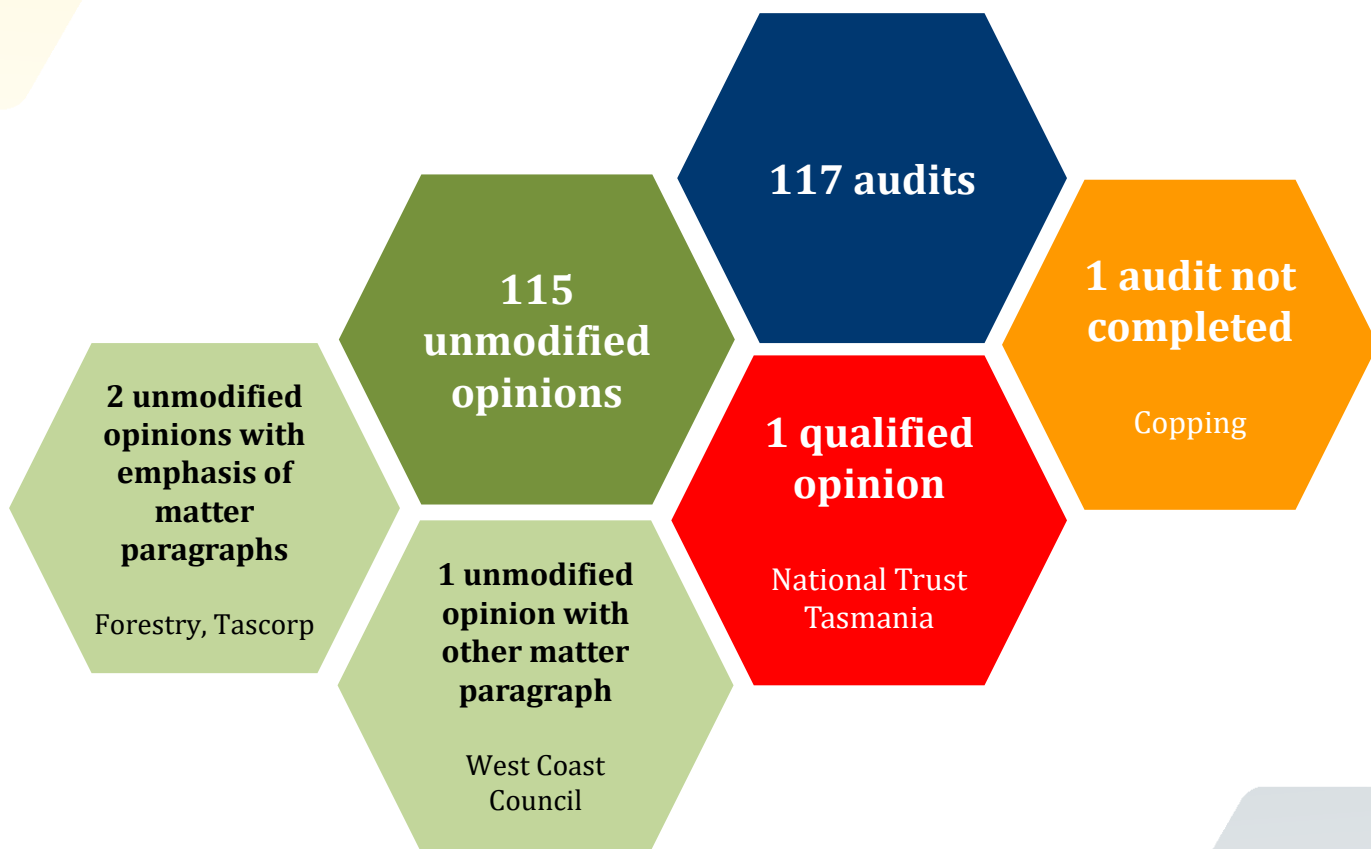
Submission of Financial Statements (30 June Audits)

Volumes 1 - 3		
Detailing results of 30 June financial statements audits tabled in Parliament before 31 December 2017		
30 June 2017 Balance Date		
109* Financial statements submitted for audit	94% Financial statements submitted on time	92% Audits completed on time
Treasurers Annual Financial Statements	Submitted on time	Audit completed on time

Submission of Financial Statements (31 December Audits)

Volume 4		
Detailing results of 31 December financial statement audits tabled in Parliament		
31 December 2017 Balance Date		
7* Financial statements submitted for audit	86% Financial statements submitted on time	100% Audits completed on time

Audit Opinions



Findings from 2017 Audits

2017

187

Audit matters
raised

119

Audit matters
raised in prior
periods assessed as
unresolved

2016

209

Audit matters
raised

85

Audit matters raised
in prior periods
assessed as
unresolved

Audit findings by risk rating/sector

16
High risk

80
Low risk

91
Moderate risk



Other

4

30

15

2

16

24

10

43

39

0

2

2



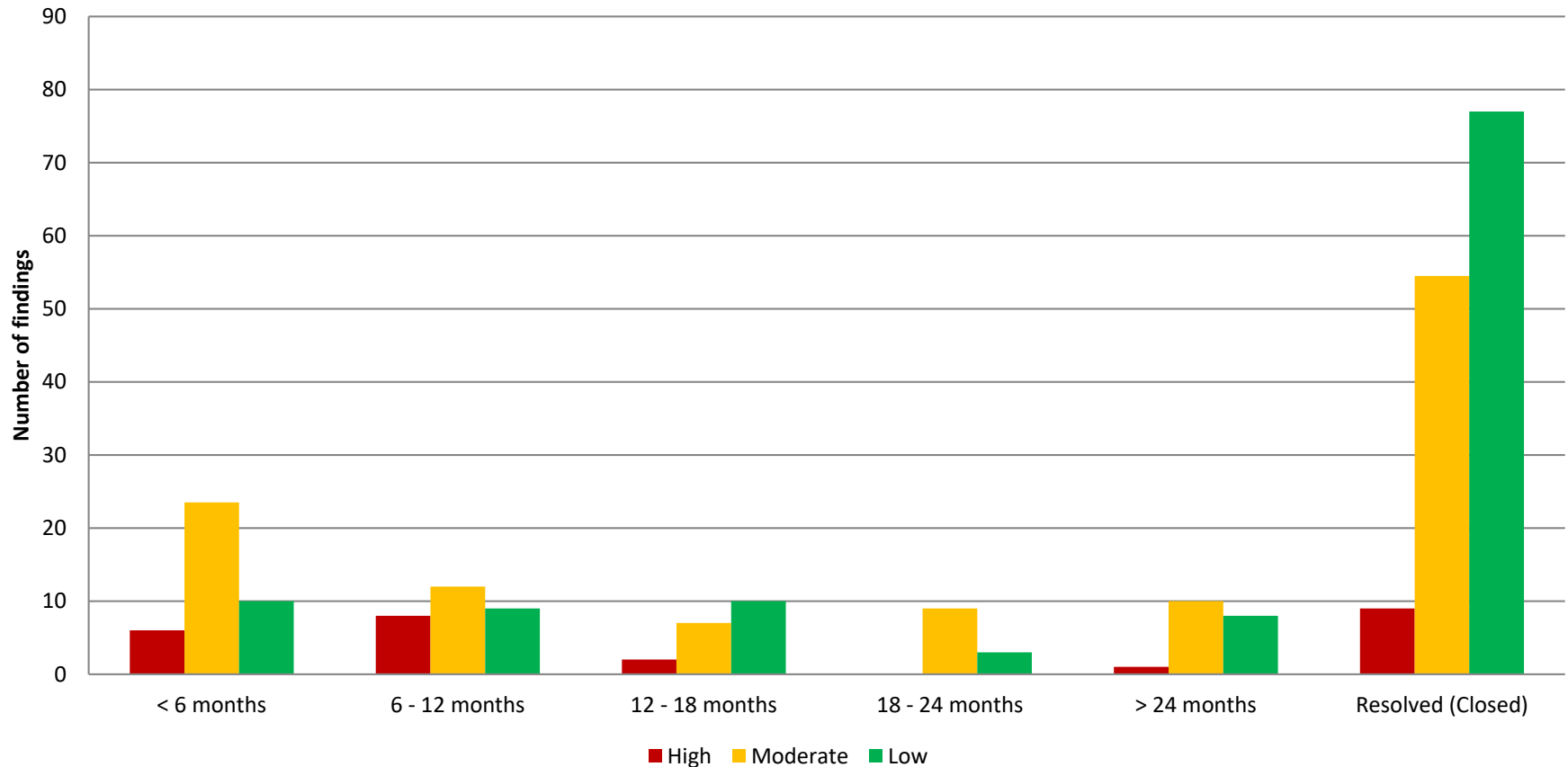
Types of findings

- High Risk
 - Asset valuations
 - Bank Reconciliations
 - Segregation of duties
- Medium Risk
 - Corporate governance issues
 - IT system issues
 - Payroll
 - Internal control and accounting issues

Types of findings

- Low Risk
 - Internal control issues of lower significance that still need to be brought to the attention of management
 - Out of date policies

Previously reported findings (Yet to be resolved)





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Case Studies about Public Sector Corruption

Mark Eady

Executive Manager Corporate and Community Services

Derwent Valley Council



INDEPENDENT COMMISSION
AGAINST CORRUPTION



Case Studies: Public Sector Corruption

Mark Eady
former Principal Officer ICAC

Case Studies

- Burwood Council
- University of New England (Armidale)

Operation Magnus

- Work on the driveway of the GM by Council staff
DPP – Misconduct in public office – remove/use docs
- Council staff working on units owned by GM/Becerra/Councillor
- Surveillance of work colleague of GM's wife (C)
- Creation of photograph of GM's wife with work colleague (C)
- Home security system for GM (C) and Mayor
- Surveillance of non Labor candidates (C)
- Employment of Becerra as in house Architect (C)
- Additional \$41400 to Becerra for Council work (C)

Magnus (continued)

- Expenditure by GM at Cafes and Restaurants
- Weekly claims for child care by Mayor
- GM Motor Vehicles – Honda CRV(C) and Audi A6
- Salary packaging for car purchase option
- Placement of law firm on Council panel
- Reprisal action against Council Director (C)
 - Includes issues about the management of complaints against GM and his involvement in directing actions despite 'Chinese Wall' delegations to other Directors
- Reprisal action against staff who worked on units and driveway (C)
 - Referral to ATO, surveillance, suspension of staff

Recommendations to DLG

- DLG be given authority through legislation to require Councils to adopt policy of statewide significance
- The Minister establish internal audit as statutory function
- The Minister amend model code to allow councillors to provide information directly to the internal auditor
- The Minister amend the Act to remove entitlement of GM to attend audit committee meeting
- DLG amend standard GM contract to provide for suspension from duty
- DLG amend the code of conduct to improve guidance to mayors about managing complaints and suspension of GM

Recommendations to Burwood

- Develop out of pocket expenses policy – GM and staff
- Councillor expenses and facilities only to be approved as provided for in the policy – no broad discretion to GM
- Align motor vehicle policy to reflect key areas of NSW state government policy – result: due economy
- Establish internal audit function with an independent Audit Committee.
- Code and handbook – all complaints re GM to Mayor
- Investigation of complaints about GM overseen by Mayor and conducted by independent investigators
- Suspension policy to align to intention and effect of Premier and Cabinet guidelines
- Councillors undertake a foundation education program

Operation Crusader

- University of New England (Armidale)
- Facilities Management Services (FMS)
- Outsourced FMS areas of responsibility:
 - Cleaning
 - Security
 - Mail room
 - Audio Visual Support
 - Ongoing payments for card entry system (Cardax)
- All these contracts engaged and managed by Col McCallum (Manager Campus Services)

Operation Crusader (continued)

▪ Quad Services Pty Ltd

- 2005 cleaning contract 3 + 2 (\$1.2M per annum)
- Quad rep and McCallum conducted monthly assessments with variations approved by McCallum
- False invoices to recoup cost of van (described as external cleaning) to the value of \$29k
- Monthly dinners paid by Quad
- Extension decision in 2008 – Recommended by McCallum post \$850 dinner involving his manager
- Provision of beer on Fridays and contributions to Melbourne Cup day lunches at St Kilda Hotel

Operation Crusader (continued)

- Sydney Night Patrol & Inquiry Services (SNP)
 - 2005 security contract 3 + 2 (\$565k per annum)
 - Provision of new 7 seat van key aspect in contract
 - 2006/7 audio visual tech support (\$60k per annum)
 - 2/2007 mail room services (Quote of \$153k per annum well under Australia Post due to synergy in van use)
 - 7/2007 Yaris needed to supplement van – McCallum approved false invoices as “alarm service” at \$897 per month (total \$19400)
 - Regular hospitality including mails, rugby matches, race days, and accommodation.
 - McCallum suggested SNP reward scheme (2 \$500 vouchers paid by UNE in 2008 – daughter recipient)

Operation Crusader (continued)

- New England Rugby Union (NERU)
 - From 11/2005 to 3/2011 McCallum XO for NERU
 - \$600 / month + 10% commission for sponsorship
 - 2010 McCallum persuaded Quad to sponsor (\$3000)
 - SNP sponsored NERU 2006-10 (\$5000 per annum)
 - 2006-07 McCallum authorised payments by UNE to SNP security at NERU finals matches (\$5700)
 - McCallum waived 2 months cleaning charges to Sport UNE (\$2000) in arranging the payment of a NERU debt
 - Sport UNE told FMS was to sponsor NERU (\$9635)

Operation Crusader - Prevention

▪ Weaknesses

- Outsourcing of services
- Procurement (Select default approach)
- Governance of procurement – policy and oversight
- Role clarity/responsibility/support
- Contract management
- Gifts and benefits received by staff
- Conflicts of interest
- Long term vacancies in key roles

Operation Crusader - Prevention

▪ Recommendations

- Zero tolerance on gifts and benefits from suppliers to FMS.
- All foreseeable expenditure included in budgets with the use of contingency funds triggering management intervention for approval.
- UNE examine models for select and single-invite tenders that are transparent and meet their needs.
- UNE re-designs procurement processes and adopts them into policy.
- UNE promptly fills gaps in audit and procurement capability while positions remain vacant.



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Contentious Accounting Issues and TAO matters

Rod Whitehead
Auditor-General

Treasurer's instruction

Treasurer's Instructions – departure from accounting standards



- Conflict between accounting standard and Treasurer's Instruction – which to apply?
- Can management depart from an accounting standard?
- Is there a fair/acceptable accounting framework?
- What is the impact on our audit opinion

Control or joint control?

Background:

- Two state entities set up a new entity
- Entity A has 60% interest
- Entity B has 40% interest
- Shareholder agreement
- 3 directors for Entity A, 2 directors for Entity B



- Decision making – majority vote of the Board
- Day-to-day activities managed by the Board
- Matters requiring agreement (75% of shareholders must agree) – borrowings, winding up the entity, altering the constitution or shareholder agreement, litigation (commencing, defending, discontinuing, settling)

Does Entity A have control over the new entity, or do Entity A and Entity B have joint control?

Control

Joint
Control

Control of joint control?

- Assess control
 - Exposed, or have rights, to variable returns
 - Affect those returns
 - Power over the arrangement (existing rights that give the current ability to direct the *relevant activities*)
- Assess joint control
 - Contractually agreed sharing of control
 - Rights and obligations
 - Unanimous agreement

Debt – current or non-current liability?

Is it a current or non-current liability?

- Original loan term > 12 months, but repayable within 12 months of YE **Current liability**
- New long term agreement after year end but before signing the FS **Current liability**
- Entity has discretion to roll/refinance debt for *at least twelve months after* the YE under an existing loan facility **Non-current liability**
- Loan agreement breach before YE, but lender waived action after YE but before signing FS **Current liability**
- Loan facility has termination date “not before the next review date”, is subject to annual review with next review 30 June 2019 **Current liability**



Restricted cash

Restricted cash:

- AASB 107 - an entity shall disclose, together with a commentary by management, the amount of significant cash and cash equivalent balances held by the entity that are not available for use by the group
- what level is “significant”?
- what does “not available for use” mean?
- does the restriction exclude the item from being classified as cash or cash equivalent?



Development incentives



- Lease incentives – AASB 117 (AASB 16)
 - Concessional loans – AASB 139
 - Future payment obligations – AASB 137
 - Remission of fees, taxes, rates – AASB 118, AASB 1004, (AASB 15, AASB 1058)
- Revenue recognition (recipient) – AASB 118, AASB 1004, (AASB 15, AASB 1058)
 - Grants and government assistance – AASB 120, AASB 1004

Important reminders

- An accountable authority responsible for the operations of a State entity is to advise the Auditor-General, in writing, before the end of the relevant financial year of all subsidiaries of the State entity (section 21(1))
- A State entity, or an audited subsidiary of a State entity, is to have an accountable authority (section 14(1))
- An accountable authority, as soon as possible and within 45 days after the end of each financial year, is to prepare and forward to the Auditor-General a copy of the financial statements for that financial year which are complete in all material respects (section 17(1))
- This includes submission of financial statements for subsidiary entities



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Panel Discussion – Composition of Audit Committees

Panel: David Hudson, Tracy Matthews, Phillip Mussared

Facilitator: Ric De Santi
Deputy Auditor-General

How important is it to have an independent chair and majority of independent members?

Highly important

Somewhat
important

Neutral

Not important

Totallt
unimportant



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Panel Discussion

How regularly does your audit committee assess its performance?

Annually

Biennially

More than
biennially

Ad hoc

Never



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Panel Discussion

Does your audit committee have sufficient resources to perform effectively?

Yes

No

Not
sure



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Panel Discussion

How often are roles and responsibilities or Charters reviewed?

Annually

Biennially

More than
biennially

Ad hoc

Never



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Panel Discussion

Are audit committees effective in inducting new members?

Yes

No

Not
sure



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Panel Discussion



QUESTIONS



How do you rate today's session?

Very good

Good

Average

Poor

Very poor



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Members of Audit Committees

Thank You