



**CHARTERED SECRETARIES
AUSTRALIA**

Leaders in governance

29 June 2012

Assistant Secretary
Commonwealth Financial Accountability Review
Department of Finance and Deregulation
John Gorton Building, King Edward Terrace
PARKES ACT 2600

By email: CFAR@finance.gov.au

Dear Assistant Secretary,

***Commonwealth Financial Accountability Review Discussion
Paper – Is Less More? Towards Better Commonwealth
Performance***

Chartered Secretaries Australia (CSA) is the peak body for over 7,000 governance and risk professionals. It is the leading independent authority on best practice in board and organisational governance and risk management. Our accredited and internationally recognised education and training offerings are focused on giving governance and risk practitioners the skills they need to improve their organisations' performance and are 'first-choice' options for those intent on pursuing a C-suite career.

CSA has unrivalled depth and expertise as an independent influencer and commentator on governance and risk management thinking and behaviour in Australia. Our members are all involved in governance, corporate administration, legal practice and compliance with the *Corporations Act 2001* with their primary responsibility being the development and implementation of governance frameworks in public listed and public unlisted companies, private companies, public sector and not-for-profit organisations.

CSA welcomes the Commonwealth Financial Accountability Review (CFAR) Discussion paper – *Is Less More? Towards Better Commonwealth Performance* (the discussion paper) and draws upon the experience of our Members in formulating our response.

General comments

CSA recognises the importance of reviewing the Commonwealth financial framework in light of the shifting community expectations on Commonwealth reporting. CSA is cognisant that since the introduction of the *Financial Management and Accountability Act 1997* (FMA Act) and the *Commonwealth Authorities and Companies Act 1997* (CAC Act) there have been many changes to aspects of the financial framework which has resulted in some inconsistency and fragmentation of the overall financial framework.

Increasing pressures and the uncertainty created through the failure of various global financial models has hastened the need to review the current Australian framework. CSA notes that it has become incumbent on governments to respond to complex issues with integrated, efficient,

effective and coordinated actions which understand the value of planning and ensure sustainability across the medium and longer term.

CSA broadly supports, therefore, the identification of a number of directions aimed at strengthening the existing framework so that it continues to support effective and cost efficient government performance. CSA notes that the key propositions outlined in the discussion paper offer stronger frameworks for addressing transparency, accountability, governance arrangements, risk, performance, capability and culture within public sector organisations. However, CSA also believes that while improvements to these specific areas are desirable, the review must similarly place more emphasis on ensuring that the Commonwealth acts as a coherent whole, and that the various State and Local governments work with the Commonwealth to effectively coordinate activity. As the discussion paper notes there are currently 195 entities performing a diverse range of functions and its operations are akin to a conglomerate that comprises many distinct entities with varying levels of operational autonomy¹.

CSA strongly believes, therefore, that the current review needs to take on a 'whole of public sector' approach and incorporate the concepts of professionalism and directorship into the model for improving operational performance. Embedded in the concepts of professionalism and directorship is also the idea that the autonomy of public sector departments and agencies must be recognised, and that the costs of control and compliance must be turned towards more flexible and accountable sector performance. CSA acknowledges that finding the balance will be difficult, but that it remains important that a comprehensive system is developed which directs, manages and operates improvements in public sector organisational performance.

CSA notes, for example, that the private sector encourages professionalism and independence through the operation of the Australian Securities Exchange (ASX) Corporate Governance Council's *Corporate Governance Principles and Recommendations* (Principles and Recommendations), the framework of the Corporations Act, and the ASX Listing Rules, including for example ASX Listing Rule 3.1 on continuous disclosure. This model offers a foundation for good practice against which corporate reporting and actions take place, whether it be in the private or public sector. All listed companies must report against the Principles and Recommendations on an 'if not, why not' basis, and they provide a consistent structure for those stakeholders wishing to understand the governance of companies listed on the ASX. The Principles and Recommendations offer a flexible framework for the corporate governance of listed companies, irrespective of their size or industry, providing transparency and accountability to their investors, the wider market and the Australian community.

CSA believes that a more flexible principles-based approach to setting standards should also be adopted for addressing public sector governance. A principles-based approach to corporate governance, rather than a rules-based approach, recognises that there is no 'one-size-fits-all' approach to many governance issues. CSA is also supportive of the desire to define core governance principles that will apply to all Commonwealth entities, regardless of their exact legal status. A principles-based approach will provide insight in to the decision making functions of Commonwealth entities and hopefully encourage the public to examine an entity's thinking and behaviour. However, CSA is also cognisant that just like the private sector; a principles based approach also needs appropriate oversight, which CSA believes must be provided by the introduction of professionalism and directorship into the functioning of agencies.

Professionalism and directorship within the public sector

CSA believes that the introduction of professionalism and directorship will provide oversight, insight, and foresight into public sector performance, risks and management whilst allowing the agency the autonomy to manage and perform. CSA notes from the outset, that various proposals within the discussion paper call for variations of oversight bodies, for example departmental

¹Commonwealth of Australia, Department of Finance and Deregulation, *Is Less More? Towards Better Commonwealth Performance* Discussion Paper 2012

boards. CSA reiterates that the form of the oversight is not as important as ensuring that the review aims to implement both professionalism and directorship into the public sector. CSA notes that other models including, two tiered boards and individual entity boards can similarly be successful within the public sector, provided that there is professional oversight of the operations. The right governance framework, similarly, offers those charged with leading the public sector agencies and departments with the tools to better manage the sector.

CSA's preference is for professional directors to be appointed to departmental boards, in line with the proposal outlined in the discussion paper. Professional directorship should not be confused with centralised decision making, and CSA notes that the concept of professional directorship is to provide advice and assurance to the government in areas such as strategy, performance, productivity, management capability, delegations, information integrity, innovation, risk and audit.

Professional directors will be required to look at the systems for managing the organisation and managing all parts of the organisation to improve performance while also prudently assessing risks. The roles and responsibilities of directors in listed companies in countries who are members of the Organisation for Economic Co-operation and Development (OECD), for example, provide the following list of governance standards and tasks, including:

- approval of strategies and budgets
- decisions about executive capability remuneration and performance management
- delegations
- organisational performance monitoring
- strategic risk and mitigation assessment
- ensuring the integrity of financial and other information, and
- oversight of auditing processes.

Again, CSA emphasises that the idea is not to bring public sector entities into line with the requirements of listed companies, but to emphasise the importance of professionalism and directorship in improving the performance of the public sector.

Importantly, the role of governance reporting and standards ensures that companies within the private sector do not 'mark their own exam papers' in assessing their performance, professionalism and capabilities. While it is the role of Parliament and its committees to scrutinise performance, CSA notes that this function often shifts towards a consideration of new or emergent issues, and funding priorities, rather than focussing on the ongoing core responsibilities of the department, agency or entity. There are many instances, therefore, where public sector managers with major potential and actual conflicts of interest become the assessors of the performance of their own agency. In addition, there may also be administrative problems associated with the undertaking of a thorough review by public sector managers of a public sector organisation, i.e. a lack of time, resources or capabilities.

CSA believes that professional directorship offers the ability to delegate authority and roles, and determine the reporting and accountability obligations of a public sector body. CSA notes that guidance should be provided to Ministers and agency heads or chief executives about how to assess the business case for a board and the circumstances which may prompt a review of governance arrangements. The foundations may then be set for the board to report to the Minister, a public accounts committee or a similar parliamentary body who should take cognisance of the Board advice together with the comments of the relevant agency head or chief executive, in order to avoid undermining the agency head or chief executive's relationship with the responsible Minister.

A professional board which is independent of management should have a terms of reference which could include asking questions as follows:

- about the performance of the agency, for example whether it is high performing, or simply performing on average, and against what criteria have these judgements been made?

- what services and programs are adding the most public value and which are providing the least value? Has the funding and appropriation of funds for the organisation been aligned with the target of maximising public value?
- what is the level of overall professionalism of the agency benchmarked against? Is the professionalism of the agency benchmarked against the relevant governance and professional standards?
- are agencies sufficiently collaborative and networked with integrated governance arrangements?
- is the rate of change in public sector capability and attraction of talent sufficient to create better public sector entities?
- what has been the quality of agency / portfolio decision making processes and the extent to which decisions are business focused?
- what is the level of risk taking and innovation required to achieve objectives? And what mitigation strategies exist to assess the effectiveness of risk taking?
- is the integrity of agency information and quality of information systems able to provide complete, concise, accurate, reliable and timely information to support decision making and review?
- what is the professionalism of audit committees, internal audit and program evaluation?

In answering these questions, CSA is cognisant that boards may need to be supported by a range of specialists in particular areas, including governance, policy, strategy, finance, human resources, risk management and internal audit, subject to the requirements of the particular department or agency. However CSA also notes that many of these specialists may be drawn from central agencies and tasked with briefing the board on considerations specific to the agency or industry involved.

CSA notes that the discussion paper contains a proposal for boards to be introduced at a departmental level² and CSA broadly supports this consideration. However, **CSA strongly recommends** that any public sector board should comprise of a majority of members independent of public sector management that are competent in exercising professional directorship and could include representation from the private sector to bring external business acumen to the board.

Any appointment of independent boards must be undertaken with the competency and professionalism of the director being paramount. There is the community perception that public sector boards may have a tendency to select on profile, stakeholder representation, political affiliation and other factors which are not always conducive to the best interests of the agency or entity.

CSA notes that the professionalism of the broader public sector must similarly be acknowledged in this context. While the emphasis is on professionalism at the board level, the intention is to ensure that the level of professionalism is transmitted through the organisation through the devolution of power. As far as practicable, professional directors must 'let the managers manage' provided that there is oversight of the capability to perform and that challenges are addressed within the priorities, strategies and risks of the department.

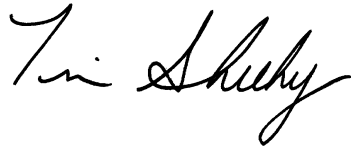
Professional boards can lead by example in this regard, assessing their own performance, professionalism and systems by building government and community trust. A board of experienced directors can provide strategic advice and insight into the design and robustness of strategies and implementation feasibility based on planned improvements in capability within an organisation. Similarly, boards must also have succession plans which align to the future challenges and strategies of the organisation while acknowledging the anticipated mix of skills and competencies required in addressing them.

² Commonwealth of Australia, Department of Finance and Deregulation, *Is Less More? Towards Better Commonwealth Performance* Discussion Paper 2012, Chapter 6, p 39

In light of these recommendations, CSA provides the following submission on the specific aspects of the discussion paper which CSA notes would benefit from better coordination and oversight, provided by the introduction of professionalism and directorship.

We would welcome the opportunity to discuss any of our views in greater detail.

Yours sincerely

A handwritten signature in black ink, reading "Tim Sheehy". The signature is written in a cursive, flowing style with a large initial "T" and a long, sweeping underline.

Tim Sheehy
CHIEF EXECUTIVE

Chapter 5 – Enhancing transparency and accountability

Fundamentally, CSA accords with the notion that accountability arrangements are essential for managing public resources and ensuring that parliament and the public can gain a clear understanding of where and how public monies are spent. At the core of this understanding, however, must be transparent and accountable practices.

CSA acknowledges the direction of the discussion paper and the proposals to clarify financial management within government agencies. CSA notes that the reduction in complexity of appropriation bills by offering single amounts for entities, or offering funding based on costs for specific programs offer valid alternatives. However, CSA also believes that a genuine attempt to collect the right information from agencies in assessing funding is integral to the process. CSA believes that linking outcomes to appropriations will stimulate better performance by agencies, and CSA accords with the intention to develop comprehensive and meaningful outcomes, outputs and Key Performance Indicators (KPIs) that are part of a more holistic, whole-of-government performance framework.

CSA suggests the introduction of more clearly defined strategies, standards and tools for public sector performance or programs and services. For example, CSA notes that the development of a public value program can provide feedback on the allocation of funding relative to public value generated from public programs. Taking a broad cross-sectional approach, public value assessments of services or programs offers an opportunity for the appraisal of the benefit-cost ratio from the allocation of expenditure and the resulting mix of services supporting the well-being of the community. This is contrasted with a purely service value approach which evaluates only the benefit derived by beneficiaries or receivers of a particular service or program.

However, CSA understands that the ranking of public value across all services and programs to determine budget allocation can be a laborious process, and requires a consistent standard across the sector. In this regard, CSA notes, as an example, the Australian Standard on value management which should be considered. Nonetheless, a public value assessment which defines effectiveness and efficiency across the sector is highly desirable and must capture the common indicators for reporting on the extent to which services are satisfactorily provided. Information on whether processes are cost effective, timely, and industry benchmarked also provides valuable insight into the way in which public value is created. Key stakeholder and community perspectives should also be sought to ensure that transparency and accountability continues to occur.

Again, CSA notes the importance of oversight and professionalism as key to enhancing transparency and accountability. Information, by itself, is of little value to government if it is not properly managed and reported. While CSA notes that the heads of department may already be supported by some form of executive management team or advisory management board, CSA believes that appropriate oversight, for example, by an independent board of departmental directors, can provide advice and assurance to the government that the transparency and accountability measures are working.

Chapter 6 – More effective governance arrangements

CSA accords with the sentiment that good governance provides the foundations for high performance and community confidence in the public sector. CSA notes that accountability and transparency alone can not coerce better performance and that high performing organisations must invest in capability aligned with the achievement of strategy and the adherence to good governance practice in order to improve both commitment and competence to perform.

As noted above, CSA supports the proposal to establish boards at the departmental level to provide oversight, and to also devolve autonomy in the operations of various agencies under the auspices of a public sector department. The degree of autonomy offered to an agency or entity,

however, should be contingent on the performance of the agency and the governance framework in place.

CSA notes that public sector performance is often damaged from the outset by the prevailing reluctance during the creation of public sector entities to stipulate the terms of reference for these entities so as to clearly state the basis for the financial accountability and public administration of these organisations, thereby avoiding the confusion, uncertainty and legal costs associated with clarifying this basis.

CSA is cognisant that the introduction of various types of public sector entities in different Acts and across different jurisdictions has also resulted in inconsistencies in the definition of a public sector entity at the most basic level. As a result, CSA has noted that this has given rise to a number of governance issues including:

- a lack of clarity about the role and powers of public sector governing bodies/boards, which has implications for the understanding by directors/members (and indeed other stakeholders, including 'owners') of their accountability, responsibilities and obligations;
- a myriad of legal structures, which has implications for the types of governance frameworks that are implemented for each entity;
- uncertainty about differing funding and reporting obligations for different types of public sector entities; and
- increases in associated costs for entities that may be required to seek advice about their reporting, audit and other accountability requirements.

CSA is currently in the process of developing a good governance guide on the 'Formation of Public Sector Boards' to assist governments with better practice.

The result is a mismatched conglomeration of public sector entities with differing governance practices and considerations. The current public sector model, therefore, does not support high performance.

CSA strongly believes that the two keys to better governance in the public sector are better oversight, through;

- a departmental board of professional directors; and
- the implementation of a principles based governance framework.

CSA notes that without these two elements, changes to the system will remain largely administrative and ineffective. For example, CSA notes that one of the key propositions explored in the discussion paper is for Commonwealth entities, which are not commercial in nature to operate from a single Commonwealth bank account. CSA believes that without oversight, this proposal offers little benefit to Commonwealth entities, in that it makes audit and accountability harder, and increases the risk that adjustments will not be attended to in a timely manner.

Similarly, CSA notes further that while legislative change to the financial framework will facilitate better governance in cross portfolio projects, ultimately the lack of project governance and oversight is the main factor in contributing to failure. CSA is aware that in many instances there can be a failure to identify the relevant minister who has direct responsibility and oversight of a cross portfolio project, thereby, leading to uncoordinated reporting and governance. CSA recognises that in the context of a cross portfolio project there may also be a misunderstanding of the regulation, policy, relevant rules, and directives which should be elucidated from the commencement of the project.

Unfortunately, CSA also recognises that in many instances there can also be poor project management at the ground level too which fails to establish the requisite cross agency issues which might arise. CSA notes that this again signals that while amendments to the governance framework will provide some benefit, it is the effective oversight and management of projects which may require attention.

Chapter 7 – Improving Performance

Improving performance within the public sector is a multi-faceted project. While in the private sector the aims and objectives can be more clearly defined, such as maximising shareholder value, the public sectors' aims including the creation of public value and intergenerational equity are not always immediately clear to parliament and to the public.

The key, therefore, is to give performance a wider frame and more holistic and integrated treatment, which includes delving into the specific combinations of cultures, competencies and processes required to direct, manage and operate major improvements in organisational performance.

In the first instance, CSA believes that the concept of improved performance in the public sector needs to be broadened past the resource management cycle, incorporating only planning, budgeting and evaluation towards a fuller model integrating capability, innovation and risk. This will provide better information for oversight because it allows for assessments to be made on both strategy design and execution, including whether or not there are sufficient resources and capabilities to achieve planned directions.

However, performance can only be improved where there is a strategic and fundamental understanding of community goals. For example, CSA notes that long term community goals are often known at the Local Government level, but due to the lack of shared understanding between the various levels of government and the Commonwealth/State government's priorities and the community direction, these goals are often not aligned with the relevant department. The standard three year government cycle does little to really embed community values and instead the strategic aims for the public sector are usually faced with a trade-off between the short term political pressures of producing results and the long term establishment of community wellbeing.

CSA notes that the question of meeting community requirements is also an area which governments have previously failed to negotiate. CSA is aware of existing reporting frameworks which provide some information, including the Government Services Productivity Commission. CSA also notes, for example, that independent community wellbeing indexes are used internationally as benchmarks for government performance with a focus on longer term community outcomes.

Improving performance is also about rewarding performing departments and CSA supports the notion that incentives and sanctions provide the most practical way to affect this goal. CSA notes the proposal for multi-year appropriations and notes that this may provide an alternative where appropriations are built in as incentives for those who are more efficient or spend more wisely than others. CSA believes that multi-year appropriations might also be able to counter the unintended behavioural consequences of budget processes, where budgets are padded to fund future efficiency dividends/cuts, or are spent to avoid losing budget allocations where further problems or issues are used to justify budgetary increases.

Again, however, performance planning is only beneficial if it is undertaken in a collaborative governance model, that is, you have performance arrangements which discourage 'silo-ism' and rewards across the sector. The performance is then overseen by a higher body, either a minister or a board of directors with the view that the agency or entity is accountable for contributing across the sector, and not just for contributing to the good governance of their own department.

CSA notes, by way of example, that this approach was trialled in Queensland through the setting of Q2 performance targets, but with mixed results as the Queensland Government has now chosen not to adopt these targets. CSA believes that a board of directors type arrangement, with the assistance of governance advisers would be able to better assess the performance of a chief executive or agency head in this regard.

CSA notes that problems may also lie in the disconnect between planning and evaluation, and people and culture within public sector organisations. In particular, CSA notes that the evaluation

process, where inadequately undertaken, usually results in copious amounts of information being collected, rather than meaningful information being collected to assess the inefficiencies in the organisation.

Chapter 8 – Engaging with risk

CSA strongly supports the public sector taking a more active approach to engaging with risk. As providers of risk and governance training, CSA believes that there is a great misunderstanding of the role of risk within the public sector, particularly in relation to achieving or not achieving government priorities and exploiting opportunities. Competency based training should be built into the government approach.

CSA appreciates that risk in the public sector is conceived of differently to that of the private sector, in that risk materialises usually in relation to market failure, rather than in the pursuit of profit or other stakeholder benefit. However, there is a disposition at present to consider risk only at the operational level of individual public sector agencies which results in a silo effect across government. The lack of understanding of the true value of risk management at the strategic level impedes its effective implementation across the sector. CSA is currently exploring ways in which it can assist governments in this regard. CSA believes that a more holistic and strategic view of risk must be adopted across governments – a framework which builds resilience when machinery of government changes occur.

At the heart of expanding the risk framework needs to be a consideration of innovation. CSA notes that innovation and risk frameworks identify areas, culture, rewards, and funding which provides for the commerciality of public sector agencies. CSA reemphasises that while agencies in the public sector appear to be predominantly focused on compliance and avoiding risk, the private sector encourages risk. CSA also notes that the Commonwealth has already assembled innovation toolkits which have been very well received and would benefit from being integrated into the risk management framework.

CSA further believes that risk also needs to be discussed from a whole of government perspective in relation to risk tolerance. CSA notes that there are multiple complexities associated with risk tolerance in the public sector. While a company in the private sector may be permitted experience an adverse result with respect to risk realisation despite good intentions and best endeavours, if a longer term aim can still be met or achieved; in the public sector political pressure does not allow for this to occur. The public sector invariably suffers when risks are realised, and the scrutiny in the public sector can subject an agency to significantly more derision than would otherwise be appropriate. CSA believes that risk tolerance, therefore, must be factored into how the public sector as a whole develops an effective risk management framework.

CSA believes that key strategies and policies should have risk taking tolerance considerations built into them so that employees are able to assess the levels of risk taking, failures and innovation which can be safely carried out. While CSA acknowledges that the level of risk will need to be individually assessed by various departments, agencies and entities relative to their own requirements, CSA notes that the criteria for assessing the level of risk allowed, should include an assessment of whether the risk is high, medium or low, and should also provide examples of the meaning of these levels, so as to help guide the department, agency or entity's actions.

Chapter 9 – Building capability and culture

CSA notes that building capability and culture, and improving performance in the public sector are inexorably intertwined. CSA is concerned that the discussion paper, conversely, takes a relatively narrow view of how to build capability and culture within a public sector organisation. While CSA appreciates that the current review is focused on financial management, CSA notes that integration between the human resource function and financial management is an integral component of building capability.

Capability and culture needs to be built at multiple levels within the public sector model. CSA notes that a core consideration in this respect is the idea of professionalism and the introduction of a culture of career progression which emulates that available in the private sector.

Aside from the considerations of building capability and culture at the individual level, CSA also notes that it is now critical for organisational builders to recognise and play a role in collaborative capability building. This means aligning training and development with business strategy, design and execution rather than purely job, personal or career development.

At this macro level, public sector capabilities will also need to address competitiveness and community wellbeing priorities and challenges. CSA notes that key indicators across this area might include an investigation of the following:

- the percentage of agencies that meet capability criteria proven to create high performance against relevant indexes. For example, CSA notes that in South Australia, public sector agencies are required to self assess and report on their capabilities against the characteristics of high performance, which include; leadership, values, strategic orientation, innovation, knowledge management, stakeholder engagement, customer/citizen focus, reporting and accountability.
- the percentage of executives, managers, specialists and workforces that are high performing versus those that require development. CSA notes that this requires criteria (common or specifically tailored) to be established for assessing high performance using reliable research which would be embedded in employee performance management systems.
- the percentage of managers who have achieved world class management against relevant and recognised indexes. CSA notes, for example, that the Australian Institute of Management issues the Australian Management Capability Index which provides a survey questionnaire and benchmark of results against management competencies for performance such as strategic, performance and people leadership, financial management, organisational capability, technology, relationships innovation and governance.

In line with our recommendations concerning improving performance, CSA reiterates that the conceptualisation of public value is similarly important to building capability and culture. CSA notes that it is the quality, quantity, benefit and value of public service performance which is important to understand when compared with the costs of running programs, and that these considerations must similarly be balanced against the innovation and risk management frameworks for the organisation.

CSA is cognisant that building capability and culture is also a product of long term goals. The constant change within the public sector largely brought about by machinery of government changes can result in a loss of culture where it is not embedded through a public sector agency or entity. The need to create a performance culture which is resilient to this change, as well as the accompanying legislative and strategic goals of the government is essential. CSA notes that this will often mean finding methods whereby value can be demonstrated through transparency and public engagement, for example, the use of post implementation reviews and evaluations.

Chapter 10 – Simplifying requirements

While CSA accords with the simplification of the legislative framework surrounding the finances of public sector entities, it should be noted that the legislative restrictions are not always the root of the problem. The public sector also suffers from cultural problems where agencies adopt risk adverse behaviours to counter their onerous compliance obligations or fear of political consequences should an initiative fail and is exposed in the media. They become compliance focused rather than performance focused leading to conformance rather than performance. CSA notes that the comparative approach in the private sector is somewhat different in that business pursues risk and innovation because they develop the confidence to proceed with making decisions with the support of the corporation's legislation. For example, CSA notes the operation of the business judgement rule which works to protect decisions made where a business

judgment has been made reasonably and in good faith. The underlying rationale being that if you have documentary support where you can demonstrate that you have weighed up the benefits, costs and risks and made a judgement, then the risk you take is protected from recourse.

Again CSA highlights the importance of ensuring that quality information is retained. Poor reporting of information usually manifests itself in the provision of information to the community which provides little insight into the running of the public sector agency or entity. Where information is aggregated this may also result in information which similarly offers little value because it is difficult to navigate.

CSA notes that the trend has been for the production of voluminous and complex information about expenditure and performance to Parliament for noting, without drilling down into whether the provision of this information has helped the public sector agency or entity actually achieve its goals or increase its accountability and transparency aims.

The aim, therefore, of simplifying requirements should focus on the provision of the right information by the public sector. CSA notes, for example, that the purpose of the CAC Act was to try and create public sector bodies who would be able to draw on the efficiencies of the corporate system and remove the government, as much as possible, from the equation. CSA notes that drawing them back into government processes may be self-defeating and may also dilute their duties. It is important, therefore, that any recommendations consider the need to ensure that there is clarity in the direction of CAC Act bodies, either through a statement of corporate intent, or through ministerial direction. This will ensure that as a director your duty remains to the company in the first instance.

CSA notes that many public sector agencies do not have the benefit of this independence. CSA also asserts that it is important that simplifying obligations also occurs progressively for those agencies who are able to improve their performance. The case may arise where an agency improves performance and demonstrates the right capabilities. CSA believes that in these instances confidence in the agency may dictate that less stringent reporting requirements are required.

Chapter 11 – Clarifying obligations

CSA has asserted from the outset that the key factor in reviewing the financial management of the sector is to introduce professionalism through the public sector. This principle holds firm throughout each of the areas of review in that professionalism and oversight provide the assurance to government that performance can be bettered in the long term.

Ensuring that the public sector performance improves, however, is also a matter of not just simply clarifying the obligations of public sector departments, agencies and entities, but also of making the decision makers within those organisations responsible for the decisions which they make.

CSA notes that the private and not-for-profit sectors have already introduced similar obligations for exercising due diligence, making sound judgements, and relying on others, where certain conditions are met, either in the *Corporations Act 2001* or the various State based incorporated association legislation. The prevailing view is that directors should be professionals who take their responsibilities seriously, regardless of whether they are remunerated or volunteers.

Alignment with the private sector in this regard is highly desirable. CSA has already alluded to the importance of the ASX Principles and Recommendations, and Listing Rules regime in establishing the manner in which reporting and governance occurs. However, CSA believes that more needs to be done in order to overcome the short term political pressures which often override long term community well-being. CSA notes that sector wide harmonisation of due care and diligence provisions, with similar penalties which mirror those in the private and not-for-profit sector will cause elected and public officials to take their responsibilities much more seriously. Unfortunately, the loss of an election or a job does not appear to act as a sufficient deterrent to

politically reckless behaviour and the community needs to be assured that the government takes seriously, the community's concerns when their interests are recklessly disregarded.

CSA notes that this will involve the clarification of obligations throughout departments, agencies and entities alike and require that responsibilities are stated properly and concisely from the outset. Alongside this, CSA notes that the introduction of a principled governance framework which not only provides better practice across departments and the sector, but also allows for the capability of people to comply with the principles in ways which are relevant to their organisation is also important.

CSA notes that if the Commonwealth wants major improvements in performance and effective strategic risk management, then it must consider these changes as core requirements in clarifying the obligations of those within the public sector. As the examples from the private sector have demonstrated, increases in the level of responsibilities, encourage the development of professionalism.

Conclusion

CSA believes that 'less could be more' if a whole of government approach is adopted which espouses to provide greater clarity, and the simplification and harmonisation of governance and accountability requirements through out the public sector. CSA has noted that in some instances this would involve the provision of less detailed, but more focused information and more pertinent high level advice provided by directors on strategy, performance, risk and compliance. Central to CSA's recommendations is also a focus on building public sector wide integrated capability and professionalism to reduce the need for detailed supervision of agencies. CSA notes that this occurs when greater incentives are introduced and rewards are aligned with a long term focus on community well-being, collaboration, innovation and risk taking within agreed tolerances, whilst demonstrating that due diligence is being properly exercised.

CSA strongly believes that the approach outlined in our submission provides the basis for good governance and high performing Commonwealth public sector organisations, while simultaneously also providing a foundation for building community trust and confidence in the professionalism of the elected and public officials.