

Job Network Members or for the department (Australian National Audit Office, 2007, p. 14).

This is more a public accountability than a client service issue. Yet, not surprisingly, process accountability issues tend to loom large in contractual arrangements. The department has about 200 contract managers. While considerable formal guidance has been provided, this in itself makes the administration (and direct relations) that much more complex and costly. Nor is the range of public sector assurance mechanisms, mentioned earlier in relation to Centrelink, available either for the benefit of the citizen generally, or for the individual job seekers, in their capacity as citizens. A simple example is the uncertainty, trauma and adjustment necessary when a provider goes out of business. The Australian Parliament has made it clear that the department is accountable for dealing with such a situation and achieving the required outcomes. There is a friction between the latter and the focus on processes, particularly where the most disadvantaged are concerned, and reflects the friction between a focus on *consumers* as opposed to *citizens*, particularly in welfare services. As Jocelyne Bourgon noted:

Public servants want to meet citizens' expectations and are ready to remove barriers to more effective service delivery, but it must be done in a manner that is true to the roles and values of the public sector (Bourgon, 1997, p. 24).

A debatable view

Both the public and private sectors still have much to learn from each other if there are to be effective partnerships or other interactive involvement in the delivery of public sector goods and services. In a political environment, I do not see any point in describing the public focus as being other than on *citizens*. Other terminology that suggests an alternative, such as *consumer*, *customer*, or *client*, is a distraction that only creates an apparent difference for its own sake.

Put simply, why do we not use the terminology that explains clearly what is required? For example, if we want the public sector to be 'more responsive', to be aware of 'cost and prices', to better assess demand, and to deliver 'quality services', then let us say so. But, at the end of the day, we serve *citizens* when we determine the nature and scope of programmes required, the outcomes we need to achieve and the manner in which services are delivered. ■

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Debate: Reforming the governance of the NAO

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The National Audit Office (NAO) now has a Chair of a Board that does not statutorily exist and will soon be headed by the third Comptroller and Auditor General (C&AG) since New Year 2008. The NAO has been accustomed to generating headlines about other organizations rather than being the subject of media controversy itself. Although this unexpected turnaround may have caused amusement among some of the NAO's clients, there are fundamentally important issues at stake.

The UK Parliament is one of the weakest in financial matters of any in an industrialized democracy. Executive power over finance is unshakeable for deep historical reasons. The Estimates cycle, through which Parliamentary authorization is given for public expenditure, is rich in constitutional symbolism (no majority government would be likely to survive a defeat on the Estimates) but devoid of opportunity for

Parliament to influence appropriations (the procedures are purely formal). This situation encourages governments to treat Parliament with disdain on expenditure matters, notwithstanding the efforts of select committees, notably the Treasury Committee.

Whereas Parliamentary control of expenditure is a myth, the scrutiny function is enhanced by the work of a strong NAO. Its record under Sir Gordon Downey (1981–1987) and Sir John Bourn (1988–2008) is generally impressive. For example, it successfully handled the transition of government accounting from cash to accruals, it has developed a substantial body of value-for-money audit work, and it has played a significant role in auditing international organizations and providing technical assistance abroad.

Identifying the problem

So, what went wrong? The landmark National Audit Act 1983 contained a fatal flaw: it did not set a term limit or a retirement age for the C&AG. It is understandable that this omission did not attract attention then, given the tradition of appointing senior Treasury officials to a final posting. However, Sir John Bourn held the post for 20 years, until the age of 73, and could have stayed longer had it not been for *Private Eye*'s hostile coverage of his expenses and acceptance of hospitality. This excessively long tenure meant that his Deputy and Assistant Auditor Generals had all been appointed by him and might also have left before him. This contributed to his domination of the NAO and to the failure of the Senior Management Board to function corporately; the operational activities of the NAO were in practice managed by the Management Committee chaired by the Deputy C&AG.

Before the *Private Eye* articles, there was concern within the NAO about the risk of controversy about expenses and hospitality but no effective mechanism for addressing the matter. The close proximity of the then C&AG to the lax control environment of the Houses of Parliament may have been a contaminating factor. Questions were raised not only about expenses and acceptance of hospitality but also about accepting paid employment as the Labour Government's adviser on ministerial interests. In connection with MPs, Kellaway (2008) has suggested a link between perceptions of inadequate pay and tolerated abuse of expenses arrangements.

The reforms proposed by the Public Accounts Commission (2008) adapted the proposals of the Tiner Report (2008), which it commissioned at the height of the expenses controversy. The intention was to include these within a planned

Constitutional Renewal Bill. In the event, this Bill was missing from the light legislative programme announced in December 2008. To confuse matters further, there have been changes (for example the joint determination of strategy by the NAO Board and C&AG rather than by the Board alone) between the Commission's July 2008 report and what is now expected to be in the Bill (National Audit Office, 2008). I have discussed these proposals in detail elsewhere (Heald, 2008). Here I focus on four issues.

The fundamental issues

First, the tension between 'independence' and 'accountability', identified by Gay and Winetrobe (2008) as generic across 'constitutional watchdogs', is manifest in the case of the C&AG. The incumbent is not only an Officer of Parliament but also a corporation sole, a legal status that facilitates the transfer of rights and obligations from one incumbent to another. With salary being a standing charge on the Consolidated Fund, there is symbolic protection from the Executive; the C&AG is head of the NAO without being an employee. Although this sounds archaic, it does constitute as strong a case of 'hard delegation' as one will find in British government.

Following Tiner, the NAO will become a corporate body, with a part-time Chair (Sir Andrew Likierman) and newly-appointed C&AG (Amyas Morse) as chief executive. The NAO Board will have a non-executive director majority and a veto over the C&AG's nominations of NAO staff as executive members of that Board. Whereas the C&AG will have a non-renewable term of 10 years, the Chair and non-executives have once-renewable three-year terms. A code of practice will be in place to protect the independence of the C&AG, particularly in making audit judgements. These arrangements duplicate governance mechanisms—corporation sole and corporate body—rather than choose between them. The risks are obvious: the Chair and Board might become conduits for government influence on the NAO; declarations that this will not happen should be assessed in the light of the experience of ministerial influence over other supposedly independent appointees. Alternatively, the NAO Board will over-complicate the governance of the NAO, directing the efforts of senior management away from operational tasks.

Second, the terms of reference which the Public Accounts Commission gave to John Tiner, formerly chief executive of the Financial

Services Authority, formulated the problem as one of structure, whereas it was primarily one of process. The failures of process revealed by recent controversies could have been addressed by a term limit on the C&AG and by strengthening the Audit Committee.

Third, though Parliament should not be blamed directly for the original problem of expenses and hospitality, there is indirect responsibility. The Westminster culture whereby laxness on expenses is a knowing substitute for proper salaries for MPs has repercussions. The salary of the C&AG is presently linked to that of a high court judge; this may have seemed reasonable in 1983 but the trend of remuneration in private audit firms and for public sector managers mean that the C&AG is now far from being one of the best paid jobs in the public sector. Holding down the salary of the C&AG on the basis that a title will compensate also depresses senior management salaries within the NAO relative to those available in private audit firms and in financial posts elsewhere in the public sector. If there has to be a statutory link, a more appropriate comparator would be the Lord Chief Justice. Paying below the market rate, as in financial regulation, is a false economy in financial scrutiny. It also undermines good public policy reasons for imposing the strongest legally enforceable constraints on the subsequent careers of former C&AGs; it is only too easy to envisage later roles that would embarrass Parliament and the NAO.

Fourth, the effect of the proposed structure for the NAO will be to weaken the Public Accounts Commission when the Parliamentary accountability and legitimacy of the NAO require it to be strengthened. The Commission is a statutory body which consists entirely of MPs. Since 2002 it has held, in public, meetings with the C&AG to approve the NAO's annually revised corporate plan (July) and the NAO Estimate (February), which is then presented to the House of Commons by the Chairman. The Public Accounts Commission has acted as a valuable protective buffer for the NAO against the Executive. When NAO strategy is internally negotiated between the NAO Board and the C&AG, there will be less opportunity for the Commission to have an effective input.

The Public Accounts Commission should also be worried that the expenses and hospitality issues did not reach it before these became a public controversy. The *Private Eye* coverage so shocked the Commission that structural change of the NAO was always likely. The Commission tends to confuse its own oversight role with the client role of the Public Accounts Committee in

relation to the NAO. Its meetings suffer from poor attendance and from an operating style more appropriate to a select committee than a statutory body. Together with better resourcing of the Public Accounts Commission, these are the issues that should have been addressed. They do not generally require legislation, other than removing from membership the Leader of the House of Commons who never attends.

Conclusion

As a voice independent of the Executive, and a resource for Parliament to access, the role of the NAO will become even more important during a period of macroeconomic difficulties and of public expenditure restrictions. NAO judgements, whether these concern accounting treatments or value-for-money studies, will from time to time create serious tensions with government. Notwithstanding the protection provided to the C&AG by the requirement of resolutions of both Houses of Parliament for removal from office, the manner of Sir John Bourn's exit has probably made future C&AGs less secure. This is not the time to over-complicate NAO governance; fortunately the delayed Constitutional Renewal Bill creates the opportunity to rethink. ■

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