



Office of the Victorian Privacy Commissioner

Department of Treasury and Finance

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Please Quote: MC01637/HV

Ms Toni McGrath
Project Director, Public Finance Bill Project
Department of Treasury and Finance
Level 9, 1 Macarthur St
Melbourne Vic 2002



Dear Ms McGrath

Public Finance in Victoria – submission to discussion paper

I make the following comments in relation to the above discussion paper.

Under the *Financial Management Act 1994* the Office of the Victorian Privacy Commissioner (OVPC) is defined as a department, as are a number of other special bodies which under Section 16 of the *Public Administration Act 2004* have all the functions of a public service body in relation to their employees. These special bodies are characterised by the need to be independent, and, in the case of OVPC and others such as the Auditor General and the Ombudsman, regulate the activities of the whole of the public sector.

The Discussion Paper does not specifically address the situation of these special bodies. Regulators are often in a position where they are dependent for resources to carry out their statutory functions from an organisation they regulate. Lack of resources can be used as a way to limit the effectiveness of a regulator. Attempts to simplify a system can, from an administrative point of view, sometimes result in those with unique oversight functions being overlooked and thus simple budgeting not being properly catered for.

When looking to reform public sector financial management, including performance reporting, care must be taken to protect the independence of these bodies, and ensure that the system is transparent and the public informed of the resources provided for regulators to carry out their statutory functions.

Outcomes framework

While there is recognised merit in the move to reporting on outcomes, there are difficulties in reporting and allocation of funds against outcome for regulators. These are:

- If an outcome is defined and includes the functions of the regulator as well as other organisations responsible for delivery of the outcome, reporting of outputs and outcomes may be influenced by the reporting Department and may prejudice the regulator's independence.

- Government outcomes rarely expressly embrace the functions of a regulator. Sometimes it is a regulators function to critically examine desired outcomes of government.
- While there may be outcomes which impliedly embrace a regulator's function, if funds are allocated against outcome, who decides the appropriate level of funds attributable to the regulators functions? As stated above leaving resources to be allocated by those regulated give rise to a potential conflict of interest.
- A regulator should not be part of the strategic planning of organisations regulated, which may be the result of requiring in legislation the development of integrated whole of government strategic plans.
- Legislating for strategic plans that are linked to outcomes and resources may be too inflexible. For whole -of-government regulators with limited resources there is sometimes a need to change a strategic plan to meet new or emerging issues.

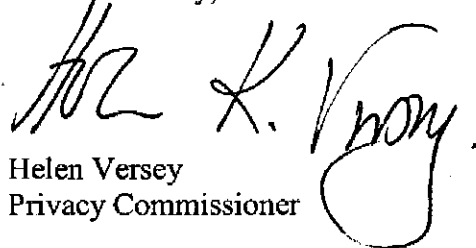
As stated above it is essential that any system for providing and allocating resources needs to accommodate and protect the independence of regulators and avoid then being dependent on resources from those they regulate.

Modernisation and Simplification

As a department under the *Financial Management Act* OVPC, with a budget of 2 million, has to comply with all the requirements of the Act, as if it were one of the 10 Departments. For the reasons of independence set out above, it is essential that regulators continue to report separately, both financial and non-financial outcomes. However, a differential approach would be appropriate to accommodate difference in size. This could apply, for example, to a more abbreviated financial report requirement. Although the Act accommodates this to some extent through the grant of exemptions by the Minister, a preferable approach would be for this to be applied through the legislation.

Thank you for extending the time for making these comments. If you or the Board have any questions I can be contacted on 8619 8721.

Yours sincerely,



Helen Versey
Privacy Commissioner