5. Departmental Governance

The department of state forms the core unit of the machinery of government at Commonwealth and state government levels. As ministerial departments, they play a central role in supporting the minister and communicating, directing and coordinating within a functional sphere of activity. For this reason, governance in and around the department has several dimensions. Departmental governance addresses how they handle their internal operations and external relationships.

The roles and operations of departments of state were historically derived from the notion of the ministerial department and government machinery that was good at forming and communicating policy advice; providing a range of administrative routines and activities such as program implementation; and which operated within understood boundaries with regard to hierarchy and standardisation. The parameters of the traditional model were relaxed, however, in the reform era and it became accepted that more flexible bureaucracy and adaptive solutions, and the use of third parties, were required within a public management focus (see chapter 2). With reform and the emergence of new ideas and challenges, including the more explicit engagement with corporate and public governance, departmental governance has been revisited over time and the core principles refined and mainstreamed.

This consideration of departmental governance examines both the place of the department and its internal and external dimensions. It draws on interviews with departmental secretaries (appendix 1), and case studies. The cases that are referred to reflect the cycle of governance issues that came to the fore over the last decade, including whole-of-government approaches (chapter 4), the evolving approaches to agency and portfolio relationships (Centrelink and the Department of Human Services), and outright governance failure that was revealed through public inquiries (e.g. the then Department of Immigration and Multicultural Affairs (DIMA)).

Governance of the department of state

Departmental governance is shaped by legislative requirements as to the roles and responsibilities of agency heads and other matters, such as reporting. Such governance depends also on the nature of the department and its responsibilities; a secretary’s leadership style will play a role in the development of this culture. The immediate public service environment, as discussed in the previous chapter, is highly significant for the role of the department. The priorities of government, the political salience of issues and the propensity of ministers to
intervene are relevant in the short term, but good departmental leadership and governance, supported by the emerging significance of stewardship, is expected to carry the agency through changing times.

There are both mandatory requirements and permissive expectations that shape departmental governance. The first are contained in various legislation, regulations and conventions. The second cover guidelines for good governance that may have general application, but which are likely to require adaptation to different agency contexts. These include internal structures, accountability instruments and various systems for handling risk and performance (e.g. APSC 2007c).

The general meaning, and several official conceptions, of governance have been raised in chapters 1 and 2. Here, the emphasis is on the departmental relevance of those meanings and conceptions. The Australian National Audit Office (ANAO) and Department of Prime Minister and Cabinet (PM&C) (2006: 13) prefer governance to be defined as ‘the set of responsibilities and practices, policies and procedures, exercised by an agency’s executive’. At the same time, PM&C also employs the term corporate governance in the Requirements for Annual Reports for Departments, Executive Agencies and FMA Act Bodies (2011: 17) to mean ‘the process by which agencies are directed and controlled. It is generally understood to encompass authority, accountability, stewardship, leadership, direction and control’. Further, three of the corporate governance items specified are derived from an indicative list that the Australian Securities Exchange (ASX) uses for reporting. A ‘Statement of main corporate governance practices in place’ is a mandatory requirement for a departmental annual report, although the specified structures and processes are merely suggested. Similarly, the auditor-general and the Australian Public Service Commission (APSC) appear to be comfortable using the terms governance, corporate governance and good governance interchangeably (McPhee 2008a: 4; APSC 2010a: 102–03).

It is not surprising, therefore, that those secretaries who were interviewed for this project (see chapter 3) did not adopt a uniform view of corporate governance reporting. While these official views exist, it is clear that (Tucker 2010: 124–25):

No approach to corporate governance in the public sector is mandated. Rather a system has been allowed to develop without central prescription … [S]ecretaries have been left to their own devices as to how to develop and apply corporate governance in their departments. As a result no centrally sanctioned view of corporate governance has emerged, and no uniform departmental reporting regime has been applied.

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1 The traditional country model for Australia, and the United Kingdom, also accords centrality to the term as in the code of practice, Corporate Governance in Central Government Departments (Her Majesty’s Treasury 2005).
Because many secretaries had been accustomed to operating under the devolved departmental system, they did not necessarily support central responsibility for directing corporate governance.

**Department of state**

The department of state is recognised in the Australian Constitution, and forms the core of the machinery of government and the basis of portfolio governance. The current 19 departments of state (a 20th department, Veteran’s Affairs, is located within the Department of Defence portfolio) are also the centrepiece of portfolio governance.

Departments vary in functions, size and complexity. Two main organising features are whether a department’s functions are primarily cross-agency or not; and whether the department specialises in one role or combines several (policy, program delivery, regulation). In the first case, it is either a line department or central agency, although several combine features of both. Departments normally have a significant policy focus, but they may not have notable service delivery responsibilities. The complications in the mix of features are illustrated by one secretary’s observation that his department, and its corporate governance requirements, differed from others because it was an old-fashioned corporate organisation and lacked a big administrative program. It was complex rather than large, the majority of its work being about policy with only an element of service delivery.

**The departmental secretary**

The secretary holds a key position as head of the department of state,² which is the cornerstone of Westminster bureaucratic systems (see also chapter 1). Extensive delegations to the secretary strengthen the position and organisation. The secretary’s role is quite explicit under the *Public Service Act 1999 (Cth)* (PS Act), the *Financial Management and Accountability Act 1997 (Cth)* (FMA Act) and other legislation. The secretary administers the department under the minister and is responsible for its management. The main roles of secretaries are (AGGRA 2010: 47):

- principal official policy advisor to the minister;
- manager, ensuring delivery of government programs and collaboration to achieve whole-of-government outcomes within their portfolio;
- leader with a stewardship role within their department; and
- Australian Public Service (APS)-wide stewardship, discharged in partnership with other secretaries and the APS Commissioner.

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² In some departments, the position of secretary is referred to as the chief executive officer.
The responsibilities of departmental secretaries include complying with the FMA Act, the PS Act and portfolio-specific directions and legislation (which includes ‘efficient, effective and ethical use’ of resources under the FMA Act (section 44). Secretaries are expected to maintain clear intra-portfolio communication, the method of which should be negotiated with heads of agencies, and to engage with stakeholders, particularly regarding departmental core activities. There is also an expectation of familiarity with key project management, human capital and information and communication technology (ICT) systems, and a commitment to the appropriate implementation and maintenance of systems (AGRAGA 2010: 47; see also the Public Service Amendment Bill 2012).

Secretaries may be specialists who head a single department (such as Attorney-General’s or Treasury) or generalists who head several departments over the course of their career (Smith 2010). In late 2011, only four women held the position of secretary.

Governance conceptions of secretaries

Corporate governance has at least two dimensions, one addressing performance of the organisation, the other conformance to legal requirements and accountability (Edwards and Clough 2005). As indicated below, in interviews, secretaries adopted different starting points in response to questions regarding their understanding of corporate governance: compliance, responsiveness/instrumentalist, and cultural. There were also internal and external dimensions. Overall, compliance was more salient than performance in conceptions of governance.

In interviews that were conducted during the period of John Howard’s Coalition government (1996–2007), secretaries focused on compliance and custodianship as being central to corporate governance. This was variously expressed as:

- the combination of structures and processes to ensure appropriate custodianship and advice within the context of an organisation;
- implementing a process that protects public money and makes heads of departments accountable for advice and decision making; and
- governance as a system and framework of controls and measures that provides a true and fair reflection in the financial statement. In signing off the annual report to the minister and parliament there is need for confidence in the accuracy and fairness of the outcomes described and the range of indicators and ethical details provided about departmental operations.

The notion of a governance as a framework that focused on internal governance of organisations was expressed as important:
• governance as the framework for establishing various mechanisms for decision making, including the Audit Committee. This goes beyond having mechanisms in place to answer questions on issues such as membership and timing; and
• a framework to guide activities. It is a set of arrangements to shape what the department and its officers do in carrying out government policy. Relevant to this is the Finance Governance Arrangements document that was written in terms of the outcomes of good governance that were proposed by the *Review of the Corporate Governance of Statutory Authorities and Office Holders* (Uhrig review).

Accountability roles were seen to be most apparent in arrangements for defining specific accountabilities and responsibilities for implementing government policy and administering legislation. These cover public accountability, lines of reporting, and responsibilities for financial management and staff management.

In interviews, two secretaries adopted distinctive positions, taking culture and responsiveness as their respective starting points. Corporate governance was acknowledged as being about ‘the systems and the structure and the culture, which you establish in a deliberate way to discharge your responsibilities including your accountability but also your responsibilities to administer and to deliver’. Governance, however, ‘obviously forms around structures but I generally don’t like to start with structures’. Corporate governance starts with: ‘softer concepts, including the culture of the place and the ethics and proprieties … about how things should be done’. This is followed by the systems and the structures that comprise governance in the development of a collegiate culture.

The starting point of the second position was as the government’s instrument: ‘Corporate governance is 1) being responsive to the objectives of the government of the day, and 2) having systems and processes in place to meet those objectives. Part of that is the APS Values and appropriate ethics, and part of it is meeting cost-effectiveness and productivity objectives’.

In secretaries’ formulations of corporate governance, then, there were both common elements and also distinctive variations that suggested differences in leadership styles. This partly centred on how they viewed compliance — as a foremost consideration or not — and also their framing of governance in terms of both hard and soft elements.
Internal management and governance

As mentioned above, structures and processes are suggested, but not specifically prescribed, in Requirements for Annual Reports (PM&C 2011). Departments normally have between three and six committees that have some relevance to corporate governance, although departmental practices vary widely.

All departments have some variation on an executive management committee, board or group (see also the discussion in chapter 3). These are invariably advisory committees, although a secretary may give them more latitude to contribute to departmental processes. There appear to be two models, at least on paper. A decision-making conception was present with a small number of departments: for example, ‘to provide key policy and management decision making’; ‘the executive committee made decisions on departmental policy, financial and operational issues’; and ‘the senior decision-making body in the department is the executive committee’. In line with the provisions of the FMA Act, advising the secretary is, however, the dominant approach. Examples of this approach include:

- advice to the secretary on overall direction, priorities, management and performance;
- oversight of corporate governance, accountability, operational effectiveness and monitoring of the financial performance of the department and its programs;
- provision of corporate leadership and strategic direction, setting of goals for the department and management of its overall performance; and
- a system that devolves ultimately to the secretary’s accountability with some structures that advise and assist with decision making.

A secretary’s explanation of how an intermediate structure worked was:

The executive board here is a creation of mine — there isn’t a legal requirement to have one. It’s something I’ve decided to have to help the chances that the decisions I make have some buy-in. It’s an opportunity for me to get counsel from senior people. At the end of the day I’m accountable. Formally it’s advisory but I don’t really run it that way — it’s a collegial practice. But I don’t think they [the board members] are under any illusion — they are helping me to discharge my accountabilities. But I do like to have full support.

Similarly, all departments have an audit committee, sometimes with the term ‘risk’ included in the title. It is now well-established practice to make external appointments to these committees. Beyond these committees, however, there is no consistency in the number or type of committees a department engages,
including the secretary’s leadership group, departmental operations executive, audit, and ICT committees. In addition to the core executive committee, a broader advisory group may be used.

There is evidence from State of Service reports for APS agencies (a term that is broader than departments) that communication was ineffective between senior leaders and other employees (only 35 per cent agreed it was effective) (APSC 2008: 208, also 2007d). The APSC expressed concern about the lack of improvement because the area had been cited in recent reports as requiring attention whereas, for 2008, there were ‘continuing lower levels of dissatisfaction being recorded in the area of senior leaders, and in some instances higher levels of dissatisfaction’ (2008: 110). Although agencies reported that policies and procedures existed for ensuring information was available, many staff disagreed that was the case. With the exception of meetings, ‘departments relied on passive mechanisms to distribute their corporate governance information. This typically consisted of placing the information, along with large amounts of other administrative information, on a departmental Intranet site’ (Tucker 2010: 141). Although communication on corporate governance occurred below the secretary, this was mixed and focused on senior executives. ‘Staff below SES are largely left to their own devices to find information and while this is for the most part readily available and accessible, staff do not afford this activity a high priority because they perceive it less important than dealing with what they believe to be more pressing tasks’ (Tucker 2010: 142).

Governance was more problematic in dispersed and large departments. One secretary posed the challenge of developing a good governance culture and the acceptance of governance down and through a large organisation of 2000–3000 staff across a dozen or more locations. The secretary of a large and amorphous agency perceived it to contain several governance systems over which it had not been possible to establish firm direction.

**Portfolio governance**

Portfolio organisation and management has developed following the 1987 changes to cabinet and the departmental structure (Brooke 1993; Podger 2009: 90). A distinction was drawn between cabinet ministers and junior ministers in the overall ministry, and was reflected in each portfolio (i.e. each had a portfolio minister and one or more junior ministers). The department provided the centrepiece of the portfolio that comprised other authorities and agencies. Budgeting and prioritising were now more clearly focused at the portfolio level, however, the level of coordination and integration varies between portfolios (Podger 2009).
Portfolios come in different configurations and sizes. Some have significant authorities under the *Commonwealth Authorities and Companies Act 1997 (Cth)* (CAC Act) (e.g. Broadband, Communication and the Digital Economy holds authority for the Australian Broadcasting Commission, Australia Post and Special Broadcasting Service), while others have responsibility for major agencies that are subject to the FMA Act (e.g. Human Services is responsible for Centrelink and Medicare; the Treasury portfolio contains 15 agencies including the Australian Bureau of Statistics, Australian Competition and Consumer Commission, Australian Securities and Investments Commission, Australian Taxation Office, Commonwealth Grants Commission and the Productivity Commission). Several others, however, have relatively few portfolio demands.

**Figure 5.1: Configuration of the departmental portfolio**

![Diagram showing the configuration of the departmental portfolio]

The resurrection of a more comprehensive ministerial department and the core public service followed the Uhrig review (2003, and discussed in chapter 2) into the corporate governance of statutory authorities and office-holders. The post-Uhrig review agenda was, in response to the proliferation of non-departmental organisations and questions about their governance, for ministerial departments to have tighter and more direct control over public agencies (chapter 9). The array of Commonwealth public bodies had been comprehensively mapped and typed by the Department of Finance and Administration (DFA 2005d). With
departments of state employing only 22 per cent of public sector staff, most worked in approximately 180 agencies, many with statutory independence. The official concern was with different legislative bases, constitutions (boards or not) and opaque governance. For effective implementation, it was evident that there needed to be clarity of purpose, powers and relationships between ministers, public servants and boards. ‘Good governance depends upon transparency of authority, accountability and disclosure. There should be no doubts, no ambiguities’ (Shergold 2004b).

One means of achieving the recommended control was to revert to departmentalisation. This was expressed through absorbing statutory authorities and reclaiming control of agencies with hybrid boards that did not accord with a particular corporate (and therefore private sector) governance prescription.  

**Centrelink and portfolio change**

The case of Centrelink covers questions about the advantages of departmental versus agency delivery, how to handle relationships between departments and agencies, and levels of autonomy and integration. All three are susceptible to changing fashions and agenda. The original concept for Centrelink was of an agency that would merge two networks for social security and unemployment that were acquired from the departments that went on to become the agency’s two major clients.  

The mandate became that of a one-stop-shop delivery agency designed to provide services to purchasing departments, but with the potential to serve other departments as well (Halligan 2008b).

The agency was located within the core public service and within the Family and Community Services (FaCS) portfolio, but was a separate entity from the FaCS Department with its own legislation, accounting and reporting requirements. In contrast to the standard departmental model, Centrelink was responsible to the Minister for Family and Community Services through an appointed board of directors, which gave strategic direction and set the overall objectives and business rules. The client departments were the purchasers of services that were detailed in negotiated agreements with the agency. Each client — usually a policy department — negotiated a purchase price for specified services that Centrelink agreed to undertake. From the point of view of the primary purchaser,

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3 Similar agendas for rationalising non-departmental organisations have been apparent in other Anglo-Saxon systems (Christensen and Laegreid 2006).

4 Centrelink was formally established in mid 1997. The agency acquired from the Department of Social Security the delivery of government services to recipients of social welfare benefits and services. The Department of Social Security’s other responsibilities were transferred to a new Department of Family and Community Services. By 2005–06, Centrelink accounted for $63.5 billion, or about 31 per cent of total Commonwealth expenditure, and employed close to 27,000 staff who were spread across over 1000 service delivery points throughout Australia.
FaCS, the only direct formal relationship with Centrelink was established by the agreement, which detailed the services, funding arrangements, performance outcomes and reporting mechanisms.

The broader reform agenda of integrated governance that came into play in the 2000s, as a result of the Uhrig review into the corporate governance of statutory authorities and office-holders (see chapter 4, this volume), included resurrecting a more comprehensive ministerial department through absorbing bodies or extending controls. The review included two delivery agencies: the Health Insurance Commission and Centrelink. The Uhrig review’s (2003) prescriptions of either a Board template or an executive management template had direct implications for boards that fitted neither.

The impact of the integrated governance agenda on Centrelink was comprehensive, as all dimensions were impacted: the relationship to ministerial direction, stronger ministerial departments in relation to policy leadership and control over public bodies, enhanced central agency capacity for monitoring service delivery and implementation, and the clarification of what constituted appropriate corporate governance for agencies like Centrelink with an advisory board. Two agendas were operating: one addressed agency governance and ministerial accountability and tempering the high levels of devolution in the public service. There were also Centrelink-specific matters that addressed governance issues, such as the operation of a purchaser–provider relationship within the same portfolio; governance by board and minister; and interdepartmental tensions (Halligan 2008b).

The position of Centrelink changed from 2004 when it was subsumed within a new parent department, and its board was disbanded. The creation of the Department of Human Services within the Finance portfolio was the most significant post-Uhrig review structural change. As a small agency, Human Services was structured to have responsibility for strategically directing, coordinating and brokering improvements to service delivery for six agencies operating under direct ministerial control and one advisory board.\(^5\) The rationale was to improve the delivery of services within a whole-of-government approach that involved better collaboration and performance, and to strengthen the vertical (ministerial and departmental control) and horizontal dimensions (delivery network across agencies). The CEO of Centrelink, and five other agencies retained responsibility for day-to-day operations, but Human Services now provided ‘assurance to the minister on cross-agency issues, the quality of outcomes, and the achievements of the government’s objectives’ (Department of Human Services 2005: 13).

\(^5\) Six agencies delivered services and payments that accounted for over $90 billion and also included the Child Support Agency, Health Services Australia and Medicare Australia.
Centrelink (along with Medicare Australia) was subsequently moved towards formal integration in the Department of Human Services. Centrelink retained its identity (as expressed through the brand and business lines) and a distinct role as expressed through the chief executive. The back-office functions of Centrelink and Medicare were combined: finance, human resources, ICT platforms, procurement and property management. The rationale was both efficiency and seamless service delivery, facilitating co-location of offices and one entry point. The official position on the integration, according to the minister (Plibersek 2011) is that it forms: ‘part of the Government’s Service Delivery Reform agenda to make it easier for Australians to get the services they need in a way that suits their circumstances. Service Delivery Reform will see … more one-stop-shops, more self service options for customers and more intensive support for the people who need it most’. The official position echoed that for Centrelink in its heyday as a somewhat autonomous delivery agency.

Looking at the longer term, the tendency of the Commonwealth to prefer the ministerial department is apparent. Accordingly, the cycle over 15 years has moved from integrated department to multi-purpose delivery agency to an integrated department. The circular process was complete in mid 2011 when Centrelink became integrated within the Department of Human Services.

**External accountability and relationships**

The main external relationships of departments are depicted in Figure 5.2. A distinction needs to be drawn between those departments that are part of government, those that are based in the broader machinery (oversight agencies) and those that are located outside (citizens and groups in society). The relationships with the political executive and parliament (under oversight agencies) are of particular importance for formal reporting and accountability. Central agencies were discussed in chapter 4. Relationships with other APS agencies are covered under collaborative governance, below.

**Accountability relationships**

The public service environment has altered in distinctive ways across the last three decades, with major implications for departmental accountability. It has changed first from the traditional focus on inputs and process to a management environment that emphasises outputs and results, and then to a market environment emphasising competitive elements (e.g. contestability), choice, outsourcing and contracts. This produced the greater emphasis on outcomes as well as outputs. Associated with each major change in the environment has been an extension of accountability responsibilities from the traditional core
(i.e. ministerial responsibility and the departmental hierarchy) that featured ministerial responsibility to cover successively new modes of external scrutiny (e.g. through new administrative law), accountability management, and more recently market accountability, performance accountability and shared accountability within governance and collaborative contexts (chapter 1).

**Figure 5.2: Key external relationships of the department of state**

A further dynamic in the different accountability relationships is the tension between the internal and external domains that are defined in terms of different accountability mechanisms (Campbell and Halligan 1993). Accountability that is internal and formal is the immediate environment of the public agency, and has both managerial and political dimensions that are hierarchical in character. External mechanisms have the capacity to operate independently of the government — parliament, the audit office, the appeals tribunal and the court — and press for more exacting public reporting and accountability. Much of the activity around public accountability issues reflects containment and control within the political/bureaucratic hierarchy up to the accountable minister, or tensions between internal and external agenda and pressures. Over time, the layers of accountability have multiplied (Halligan and Sadleir 2011; Mulgan 2003).

Departmental secretaries report to their minister on a regular basis and annually, as per their performance agreement. For parliament (and the public) Portfolio Budget Statements (PBS) provide details of the proposed allocation of resources to government outcomes. They are an important means by which the political
executive and its departments and agencies are held accountable to parliament. The departmental annual report informs parliament and the public about performance against the outcomes and programs.

A secretary may take the demands of the role in his or her stride, but three factors may, at times, weigh heavily on individual performance. The first is the tradition of rigorous accountability with the heavy demands of reporting and the high level of scrutiny. The second is the interface with the centre where ambiguity in the relationship with the prime minister’s office and PM&C can produce disputes because of different perspectives and ways in which individuals serve the same prime minister. The third derives from the pressures that may arise in a relationship with a minister where different conceptions emerge about the location of boundary between their roles and the extent to which it is reasonable to exercise political influence (see cases in Tiernan and Weller 2010: 146–47).

Accountability in the Department of Defence

The case of Defence brings into relief central questions of accountability. The department is large, with multifarious components, but it also has the complexity of the diarchy, consisting of the department secretary and the chief of the defence force reporting to the Minister of Defence, superimposed. The seemingly intractable governance problems of a conglomerate department like Defence have been left unresolved for years, but continue to become more pressing. The structure of the diarchy is cascaded down the organisation. Defence, however, has continued to be ‘a single organisation of many parts. Each part has its own culture and history from which it draws capability … The continuing legacy of Defence’s origins in five departments and separate services has left defence with complex accountability systems.’ With the increasing demand for improved performance within tight budgetary conditions the accountability arrangements have come under greater stress (Department of Defence 2010: 11.1, 11.4).

Defence is candid about these failures damaging government and its performance, and the need therefore ‘to redesign its accountability system to strengthen its capacity to drive better performance’ (Department of Defence 2010: 11.5). The department has been the subject of an unpublished report to the department about how to undertake improvements because it was unable to assure the minister that the condition of accountability was not having a deleterious effect on the organisation (Parnell and Dodd 2010: 9).
Collaboration across departments (and beyond)

Questions of accountability, responsibility and effectiveness also arise in the handling of new forms of collaboration. The whole-of-government movement, which is discussed in chapter 4, has evolved into the language of collaborative governance (O’Flynn and Wanna 2008; APSC 2009c; Blackman et al 2010). The spectrum of arrangements ranges from policy design through to the management and integration of service delivery (e.g. APSC 2009c: 119).

The effectiveness of different approaches to collaboration depends both on the complexity of the policy or program task and the way it can be configured. In practice, there has been a wide spectrum of experiments ranging from crisis management through to the challenges of coordinating the administration of Indigenous programs and services (chapter 6 and Gray and Sanders 2006). A number of critical enablers and major barriers to effective whole-of-government operationalisation have been identified. In practice, significant tensions and paradoxes can arise from attempts to work across boundaries (O’Flynn et al 2011).

Of the several mechanisms of collaboration, the interdepartmental committee (IDC) was a central component of traditional machinery, numbering as many as 180 IDCs in the 1970s, mainly between departments with responsibilities ranging from routine administration, adjudication to policy. The policy IDCs (normally between 30 and 50), displayed two significant characteristics: operating as a collection of delegates who defended the interests of their department and tended to search for a consensus outcome (Painter and Carey 1979). IDCs have retained a recognised presence in the 2000s, and their traditional roles are recognised, but they are no longer the only mode of cross-departmental coordination for program design, review and management; new structural innovations are emerging for strengthening collective and cross-portfolio coordination (MAC 2004).

Task forces originally rose to prominence as a means of avoiding the defects of IDCs and as short-term vehicles for giving focus to government agendas. The task force became ‘semi-formalised as a device to develop new policy or to deal with significant, urgent issues’ (MAC 2004: 29). Whereas, once, task forces were distinguished informally from other cross-agency structures, the understanding was entrenched of the task force as ‘a discrete, time-and-purpose limited unit responsible for producing a result in its own right’. Their capacity for operating independently from policy departments was strengthened by PM&C being, in many cases, assigned administrative responsibility for them (Hamburger 2007).

The traditional mechanisms — the cabinet (of ministers) and the central agencies — are of course prominent in coordination. Task forces became relatively institutionalised and addressed significant issues but, according to APSC figures, they only involved a relatively small proportion of senior executive service/
executive level public servants (14 per cent). Joint teams (regarded as longer lasting structures that blend functions across portfolios) accounted for 16 per cent. Membership of interdepartmental committees continued to be the most significant activity (29 per cent) (APSC 2007d: 230).

There are important questions about accountability and effective reporting where a number of departments and agencies are collaborating under horizontal governance (chapter 1), and more so when third parties are involved. Tucker (2010) examines the case of illegal fishing in Australian waters, which involved 10 agencies with different roles and objectives, each of which was focused on reporting to their minister. The sharing of accountability is now on the reform agenda (AGRAGA 2010) (see chapter 10, this volume), and may redefine some relationships where the arrangement extends beyond devices for satisfying compliance.

External focus

Consultation with external stakeholders — participatory governance — is reported as increasing, with program delivery more often the subject of such consultation. Senior and mid-level executives had substantial interaction with industry and contractors/consultants, but modest experience of consultation with communities and citizens (APSC 2010a: 57). Major delivery agencies make extensive use of citizen feedback (i.e. satisfaction surveys) (APSC 2009c: 128–34). Ahead of the Game: Blueprint for the Reform of Australian Government Administration places great emphasis on relating to citizens and recommends a coordinated approach to surveying attitudes (AGRAGA 2010) (see chapter 6, this volume). The head of the public service has concluded that ‘Many departments are currently not very outwardly focused’ (Moran 2010a: 11).

Oversight agencies and parliament

The external bodies of oversight and review — parliament, ombudsman, audit and administrative appeals — operate outside the direct control of government, and therefore contribute important and often public judgments about departmental governance. The ANAO produces regular performance and financial statement audits and guidelines that shape directly and indirectly much of what departments do.

The Commonwealth parliament exercises its oversight role most explicitly through its committee system. Three basic types of committee — scrutiny, investigation and legislation — produced 3220 reports over three decades (Halligan, Miller and Power 2007). There are regular instances of parliamentary committees having some form of policy impact through the much more
commonplace activities of scrutiny and review. Officials in the executive branch continuously adjust their plans when they know in advance that these plans and the proposals that derive from them are going to be subjected to close committee examination. These intra-governmental scrutiny mechanisms can be contrasted with scrutiny of business through the market and corporate regulators — thus reinforcing that accountability is important but manifestly different across the public and private sectors.

**Issues in public governance**

The main issues of public governance can be divided into those that derive from the conduct of relationships within organisations and those with external actors. Internal issues arise from communication and collaboration problems between parts of the organisation (e.g. divisions and branches; or up and down the hierarchy). The lack of attention to ‘soft’ questions as opposed to the ‘hard’ types is a source of weakness in corporate governance (chapter 1).

The external influence on issues commonly stems from poor relationships with the minister and/or the ministerial office. The neglect of other stakeholders is also a source of difficulties. According to the APS commissioner’s interpretation (Sedgwick 2010a: xvi):

> History suggests that various components of the APS will experience stress for which they are unprepared at different times— either because the organisational culture has become too fixed (as was arguably the case earlier this decade in the then Department of Immigration and Multicultural and Indigenous Affairs …), or because they were dealing with the unexpected (arguably the case in the more recent incidents of Motor Dealer Financing Arrangements — OzCar and the Home Insulation Program).

Issues with accountability and reporting arise quite often and may be addressed through rationalising the governance of different types of agency and authorities, as discussed in chapter 4, or as instanced by the cases of Defence and Centrelink, discussed above and, DIMA, discussed below.

A feature of issues with accountability, which frequently acquire public prominence and are then subject to an official review, is that they encompass a number of distinct elements that have the cumulative effect of producing a breakdown in governance (compare international corporate governance failures where multiple corporate governance issues were significant in cases such as the collapse of Enron Corporation: McPhee 2008: 16). The DIMA and procurement cases illustrate this complexity.
Internal governance failure in DIMA

The case of DIMA demonstrates a range of governance issues — in particular a focus on structure and legal compliance rather than the appropriateness of decisions — and the vulnerability of governance where a complex set of factors comes into play.

It is rare for departments of state to fail. Policy failure is depicted as ubiquitous (Bovens and ‘t Hart 1996) with a range of programs, projects and public works, and the odd systemic failure is evident in government departments (Gregory 1998), but more usually of a specialised nature. The DIMA experienced an internal breakdown of basic operating procedures, culture and leadership in the mid 2000s. The department had acquired a high profile because of the government focus on keeping illegal immigrants out and locating and deporting those that were already in Australia. The failure of governance in DIMA was revealed through a succession of inquiries into the handling of the detention of citizens. The then head of the public service, Peter Shergold, is reported as describing ‘the cases as the worse thing that has happened in the public service in recent years’ and blaming the failures on public service deficiencies. He is quoted as saying that in addition to failures in ICT systems and record keeping: ‘It was a failure of public administration … it was failure in some ways of executive leadership’ (ABC 2006).

The first investigation was the Inquiry into the Circumstances of the Immigration Detention of Cornelia Rau (Palmer 2005), which arose out of the illegal detention and deportation of an Australian citizen. The second involved the unlawful detention and removal from Australia of another citizen, Vivian Alvarez (Commonwealth Ombudsman 2005). Palmer reported an astounding range of weaknesses, flaws, and disconnects within an overall managerial approach that emphasised process and had an ‘assumptive culture’ (2005: x, 164–68).

In light of the Rau and Alvarez affairs, the government referred 247 immigration matters to the Commonwealth Ombudsman for investigation. The ombudsman, in several individual and one synoptic reports (2007), examined how and where the department made mistakes, discussed 10 lessons of public administration, including maintaining quality records, adequate controls on exercise of coercive powers, active management of difficult cases, removing obstacles to inter-agency exchange of information, managing complexity in decision making, checking for warning signs of bigger problems and control of administrative drift.

In order to account for the layers of complexity in the DIMA case, an interpretative framework covers four perspectives that include corporate governance and

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6 For a fuller treatment of the case, see Tony Tucker’s (2010) analysis.
closely related dimensions: the rule of law, new public management (NPM), political management and public governance (Halligan and Tucker 2008). Only the governance aspects can be examined here.

DIMA’s roles of simultaneously encouraging and discouraging the entry of people to Australia attracted diverse staff to the organisation. The gatekeeper role, especially in compliance areas, appealed to law-enforcement professionals who frequently held strong views about protecting Australia. They needed leadership that carefully balanced the gatekeeper role with the actual views of government. This required corporate governance arrangements that engaged the organisation’s owners (i.e. the minister) to ensure that the correct outcomes were pursued. It was the corporate governance leadership arrangements that set the tone for the culture of the department (Halligan and Tucker 2008).

Corporate governance arrangements were designed inter alia to insulate public agencies from failure and, in DIMA’s case, they might have worked if both structural (i.e. formal) and behavioural (or informal) elements had been taken into account. However, Palmer (2005: x) found that the department’s approach to implementing complex detention policy was ‘process rich’ and ‘outcomes poor’. In Tucker’s interviews, it emerged that staff perceptions of corporate governance ‘reflected the mechanistic, process-driven nature of its operations’, and a focus on structural elements — e.g. compliance with law — rather than behavioural issues of ‘correct’ decision making (Tucker 2010: 170). The resulting culture in the compliance and detention areas produced decisions, according to Tucker, ‘that were lawful, but not necessarily fair’. How lawfulness was defined was mainly up to the staff. However, Palmer (2005: ix), concluded that DIMA staff in these areas had the authority ‘to exercise exceptional, even extraordinary, powers. That they should be permitted and expected to do so without adequate training, without proper management and oversight, with poor information systems, and with no genuine quality assurance and restraint on the exercise of these powers is of concern’. He was unable to comprehend how these arrangements were allowed to continue over several years.

Senior executives reflected DIMA ambivalence towards corporate governance. One viewed corporate governance as a process control, reinforcing the traditional public service structures and largely unchanged from what existed prior to NPM: ‘The rhetoric is new but … we spend a lot more time talking about it than getting on and doing it’. Another, expressed a more rounded understanding of corporate governance, but thought that the arrangements needed improvement because they weren’t ‘visible enough … Why aren’t issues on corporate governance being distributed to staff? There is no buy-in’ (quoted in Tucker 2010: 174). Departmental attitudes suggested that corporate governance was considered a passing fad from which DIMA would take what it needed, and leave the rest. A senior respondent observed that he was not interested in public
administration: ‘[I’m] interested in results for government, results for clients, improving the way we do our work. We are a bread and butter department. I’m not too fussed about APSC and ANAO models. They are useful to some if they have the time … We use it when appropriate’ (quoted in Tucker 2010: 173).

Following government action to restructure the department, all senior staff were replaced. By 2007, the new secretary reported that the department was back on track under new leadership (Metcalfe 2007). The DIMA case had broader implications for other departments (see the APSC 2007a, 2007c response), and produced a major reform agenda to correct the litany of deficiencies in departmental governance.

**Procurement and program governance**

Among the numerous issues of public policy that were prominent in 2010, the Green Loans Program and the Home Insulation Program (HIP) were accorded extensive scrutiny through a series of inquiries that included commissioned reports, ANAO and parliamentary committee reviews, and a departmental response covering both programs.

The Green Loans Program derived from a Labor government election commitment and was launched with the purpose of assisting families with installing solar, water saving and energy efficient products. It entailed offering householders a free home sustainability assessment and, on the basis of an action plan for reducing energy and water use, an interest-free ‘green loan’ of up to $10,000. The then Department of the Environment, Water, Heritage and the Arts (DEWHA) was the responsible agency. A range of services was procured in designing and rolling out the program between 2008 and 2009 (Faulkner 2010).

By late 2009, concerns had arisen about the program, and four reviews were eventually conducted, including ones by the Senate’s Environment, Communications and the Arts References Committee (yet to present its final report) and the ANAO (2010). The Faulkner inquiry (2010: 3) reported an extensive lack of compliance with procurement guidelines and regulations, weaknesses in the contracting process and shortcomings in program arrangements. The key factors that contributed to poor procurement practices and outcomes were multiple. The first was the absence of effective program leadership. This was attributed in part to high turnover at branch-head level (and, to a lesser extent, other executive positions), and the inadequate levels of monitoring, supervising and advising of program staff by senior managers and leaders in the department. Ultimate responsibility lay with senior leadership in the department.

Secondly, there was a failure to establish a ‘Program Centred Governance Model’. Without such a governance model, insufficient attention was given
to program management and, consequently, there was a lack of definition of accountability. There was also a lack of engagement with corporate functions in the department during design and implementation of the program. Other issues were insufficient resourcing and skills within the loans team and the appropriate use of expertise during the program design phase. The final issue was the inadequate communication between the program team, on the one hand, and the department’s executive, central corporate services, and the ministers’ office on the other (Faulkner 2010: 4, 34–42).

The ANAO (2010: 18) concluded that the primary reason for administration problems with the Green Loans Program was the:

absence of effective governance by DEWHA during the program’s design and early implementation. DEWHA had no previous experience in designing and delivering [such] a program ... As a multi-faceted ‘greenfields’ program with a fixed budget and variable (and untested) demand, the Green Loans program required greater oversight than the department’s business-as-usual activities.

The Home Insulation Program (HIP) was designed to improve the energy efficiency of homes, to generate economic stimulus and to provide support for jobs and small business. It was part of an Energy Efficient Homes Package within the Nation Building and Jobs Plan, which was the Rudd government’s response to the global financial crisis (Hawke 2010). It was the subject of a review by Allan Hawke, which included the provision of ‘high level insights into the effectiveness of program governance’, and covered responsibilities of relevant agencies and states and territories. The report commented that complex relationships existed, particularly between governments. ‘Unlike other components of the Nation Building and Jobs Plan, the HIP had no established pathway for national delivery. Oversight and reporting arrangements were part of those designed for delivery of the Nation Building and Jobs Plan, which had some unique features’ (Hawke 2010: 11).

The ANAO concluded its review with the factors affecting the success of program’s implementation (ANAO 2010: 175):

if it receives strong executive-level support, and there is a sound governance framework in place to oversight progress and respond … to any unexpected variations in performance. Governance arrangements need to be tailored to the requirements of the program with clearly defined roles and responsibilities, including decision-making responsibilities. This is important for allowing appropriate mobilisation of resources and addressing emerging problems in a timely and effective manner.
It goes on to observe that ‘effective governance arrangements will incorporate a clear reporting framework that provides for accurate, reliable and relevant information to key stakeholders to assist decision-making on strategic priorities’. The reporting requirements need to reflect the program risks in relation to the administrative demands from data collection and analysis, and the targeting of audit and compliance (ANAO 2010: 175).

**Directions for departmental governance in the 2010s**

Departmental governance post-*Ahead of the Game*

The broad significance for the public service of *Ahead of the Game* has been discussed in chapter 2. For departments also, there are indications that they may face a new environment comprising characteristics that are either emerging or increasingly prominent in ideas and practice internationally. They have in common both a more open system and greater, if selective, oversight. The overall impact of transparency, open government, partnering and citizen engagement and feedback means new dimensions of responsiveness and collaboration are required.

A second theme is the new forms of oversight that are apparent here and in other Anglophone countries: reviews of departments, the role of external appointments and incipient use of boards for agencies. *Ahead of the Game* has already committed to capability reviews based on, but different from, the approach adopted in the United Kingdom. They are expected to include external participants from outside the public service. There are, of course, precedents for drawing on external experts in corporate governance, such as their use on departmental audit committees and reviews of aspects of governance.

As yet, there has been no inclination to move down the UK path of corporate boards that include independent non-executive members. These boards have been mandatory since 2005, although the concept dates from the 1990s, and have variable performance and weakly defined roles, according to a recent survey by the Institute for Government (Wilks 2007, 2008; Parker et al 2010). Yet, more generally, the notion of boards including external members has been surfacing in Australia (e.g. that proposed for the Australian Taxation Office: AAP 2011).
Secretaries’ and ministers’ roles and the place of stewardship

The relationship between secretaries and ministers has at times been fraught with issues about boundaries. Ministerial styles vary widely. Under Westminster tenets, there has been a tendency for successive governments to claim ownership of the public service. This can have significant implications for transitions between government when tensions arise with a public service perceived by new political leadership to have been too close to its predecessors. A significant clarification of the secretary’s role is the stewardship function that has been previously recognised (e.g. ANAO 2003c) but not accorded prominence. According to AGRAGA (2010), the APS-wide stewardship is a core role of the secretary, and one that is ‘discharged in partnership with other secretaries and the APS Commissioner’.

Politicians’ lack of strategic focus and ‘short-termism’, which was evident during the fourth term of the Howard government, indicated that an alternative was needed to relying heavily on political direction. The stewardship role is designed for the public service to have ‘the capacity to serve successive governments. A stewardship capability must exist regardless of the style of any one minister or government’. Stewardship covers ‘financial sustainability’ and efficient resource management, as well as ‘less tangible factors such as maintaining the trust placed in the APS and building a culture of innovation and integrity in policy advice’ (AGRAGA 2010: 5).

The secretary’s role has generally been regarded as having several well-understood components that cover policy advice to the minister, administration and/or management, and these have now been specified in legislation. The ‘public interest’ element has also been given explicit recognition (Halligan 2011a; PSAB 2012).

Conclusion

Departmental governance has been evolving and is now better understood by the senior public service. At the same time, the departmental environment is more demanding and policy complexity is greater. Different levels of governance also come into play. The trend towards horizontal governance (see chapters 1, 3 and 7) expands the number of actors that have to be factored in to departmental governance. The Ahead of the Game reform agenda also has extensive implications for departmental governance.
Important questions continue to exist about the relative autonomy of departments from central agencies, and of agencies from portfolio departments. There are continuing pressures from the centre for a better balancing of devolved department responsibilities and central agency influence (see chapter 4 for historical swings in relationships). While the central agencies have regained some of the roles that they lost in the 1990s, departments like Finance envisage that further redefinition is required, and the strengthened role of the APSC is also significant. These tendencies have implications for the interface between departmental and system governance (chapter 4).

Despite the close attention given to governance improvement during the last decade, significant cases of failure have continued to arise, particularly where several internal and external factors intersect. There are questions to be asked about how this occurs despite extensive governance learning and standard setting, and whether the challenges, complexities and risks of modern departmental governance make this inevitable. More generally, the ongoing cycle of renewal ensures that every decade or so there is a shift in governance approaches, and this can be of great significance for how departments operate.

The functional principle on which most departments are founded continues to provide the most effective basis for the delivery of government priorities and public services. Yet, much of the clamour for change involves opening up the departmental silo to new forms of engagement. How the different imperatives are reconciled will provide a continuing challenge for departmental governance.