Office of the Auditor General

CAYMAN ISLANDS

EFFECTIVE PUBLIC SECTOR GOVERNANCE AND HOW EXTERNAL PUBLIC AUDITING SUPPORTS IT

A Paper for the UCCI International Conference on Leadership, Governance and Empowerment in the Caribbean

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ABSTRACT

This paper examines the role of external independent public sector audit in supporting effective or good governance in the public sector. It considers what is meant by good governance and the principles that underpin it. It identifies certain principles, accountability and transparency, common across various definitions of good governance and discusses how a robust external public audit regime, through the provision of independent objective based information, is an important element in a democratic society to enable the legislature to effectively hold government and its related public entities to account for how they have used public resources. It discusses why the legislature needs the support of external independent public audit to carry out its scrutiny role effectively, and the type of work that an external public sector auditor requires to carry out to effectively provide relevant and sufficient objective based information. It goes onto to consider the key requirements of an external public sector audit regime, including independence, legal mandate, public reporting and capacity, if it is to be effective in carrying out its role of supporting effective scrutiny by the legislature. It considers the example of accountability and the external public sector audit regime in the Cayman Islands, examining the framework in place, how it has operated and how that has affected accountability and governance in the Cayman Islands. Finally, in this context it considers impediments that have, or potentially could, affect the external public audit regime and thus governance in the Cayman Islands, and more widely in the Caribbean Region.

INTRODUCTION

1. This paper examines the role of external independent public sector audit in supporting effective or good governance. It first considers what is meant by good governance, before discussing why external independent public sector audit is an important element of a good governance framework. It then goes onto to consider the key requirements of an external public sector audit regime, before examining accountability, scrutiny and external public sector audit in the Cayman Islands and impediments that have, or potentially could, affect governance in the Cayman Islands, and more widely in the Caribbean Region.

2. The views expressed in this paper are my personal views after spending eight months as the Auditor General of the Cayman Islands and are not based on a formal study by my Office.

GOVERNANCE, WHY IT IS IMPORTANT

3. Governance relates to the institutions, processes and systems by which countries and organisations are governed. For a definition, I've used the International Federation of Accountants (IFAC) study paper, Governance in the Public Sector: A Governing Body Perspective, 2001, that states "Governance is concerned with structures and processes for decision-making, accountability, control and behavior at the top of organizations."

4. Over the last couple of decades there has been a lot of discussion and debate regarding governance in both the private and public sector, driven to an extent by significant failures in companies and the public sector. The concept of "effective" or "good" governance has developed and is seen as a key component in delivering outcomes for stakeholders. The UN states that[1]:

   "well-governed countries are less likely to be violent and less likely to be poor. When the alienated are allowed to speak and their human rights are protected, they are less likely to turn to violence as a solution. When the poor are given a voice, their governments are more likely to invest in national policies that reduce poverty. In doing so, good governance provides the setting for equitable distribution of benefits from growth."

5. This is supported by Kaufman, Kraay and Zoido-Lobaton in their 1999 Governance Matters working paper for the World Bank, which concluded:

[1] United Nations – Global Issues Website: Governance

"there is new empirical evidence that governance matters, in the sense that there is a strong causal relationship from good governance to better development outcomes such as higher per capita incomes, lower infant mortality and higher literacy."

6. The importance of good or effective governance in the public sector is further highlighted by the IFAC study paper which states "effective governance in the public sector can encourage the efficient use of resources, strengthen accountability for the stewardship of those resources, improve management and service delivery, and thereby contribute to improving peoples' lives. Effective governance is also essential for building confidence in public sector entities — which is in itself necessary if public sector entities are to be effective in meeting their objectives."

7. The importance of good governance is also effectively demonstrated through failures, both in private and public sector. In the UK, the high profile collapse of a number of corporations in the early nineties, including Maxwell Communications and the Bank of Credit and Commerce International, and then more recent issues arising out of the banking and financial crisis, have been attributed at least in part to failures in governance. In the US, the collapse of companies such as Enron and WorldCom, provide other examples of significant deficiencies in governance arrangements.

8. In the public sector, recent examples of poor governance that have been attributed to public service failure include:

   - MPs expenses and allowances at Westminster, where inadequate systems, controls and oversight in the system led to significant abuse by those elected to represent the best interest of their electorate;
   - the sponsorship scandal in Canada where over $200 million was diverted from public funds to companies supporting political parties;
   - UK local authorities putting millions of pounds of public money at risk due to holding money on deposit with Icelandic banks which collapsed in 2008, despite receiving warnings in the months before the collapse; and
   - the imposition of direct rule by the UK in the Turks and Caicos Islands.

9. A lot of the focus in analyses of these failures considered that the governance arrangements or frameworks were not robust enough, and whilst not necessarily being the sole reason for the

failures, certainly contributed to them. Whilst these highlight some obvious examples, failures in the governance of organizations that deliver essential public services such as social care, police and healthcare can have a detrimental effect on lives of the people they are there to serve and protect, and lead to a lack of trust in government and public sector entities.

PRINCIPLES OF GOOD GOVERNANCE

10. Whilst there is clear consensus that effective or good governance is important in the public sector to ensure the delivery of improved outcomes for stakeholders, it is not necessarily straightforward to define what good governance is.

11. Setting out the governance requirements in the private sector is more straightforward as there is a clear focus for governance at the board of directors, driven by the profit motive (ensuring compliance with statutory and regulatory requirements) and there is clear line of responsibility/accountability to owners, the shareholders. However in the public sector it is less straightforward as governments and public sector entities operate in different statutory and managerial environments, have wide ranging and potentially competing objectives, are subject to political forces and generally are not for profit in nature. The stakeholders, or those that have a clear interest in the government or public sector activities are also more wide ranging including government ministers, officials, legislative bodies, customers, general public and external agencies.

12. Given the variations and complexities in the public sector, organisations and bodies have set out the requirements of good governance in terms of principles or overarching frameworks, though this in itself is not entirely straightforward, and has been subject to significant debate and discussion. The United Nations on its Global issues website indicates that:

    "In the community of nations, governance is considered "good" and "democratic" to the degree in which a country's institutions and processes are transparent. Its institutions refer to such bodies as parliament and its various ministries. Its processes include such key activities as elections and legal procedures, which must be seen to be free of corruption and accountable to the people. A country's success in achieving this standard has become a key measure of its credibility and respect in the world.The greatest threats to good governance come from corruption, violence and poverty, all of which undermine transparency, security, participation and fundamental freedoms."

13. However, even amongst United Nations bodies, whist there is significant amount of consensus, there are variations about what the principles or characteristics of good governance are. One example which provides a reasonable summary is from the United Nations Economic and Social Commission for Asia and the Pacific paper – What is Good Governance, which describes:

> *"eight major characteristics of good governance: participatory, consensus oriented, accountable, transparent, responsive, effective and efficient, equitable and inclusive and follows the rule of law. It ensures that corruption is minimized, the views of minorities are taken into account and that voices of the most vulnerable in society are heard in decision making. It is also responsive to the present and future needs of society"*

14. The Organisation for Economic Cooperation and Development in its Policy Brief – Public Sector Modernisation: Open Government, states:

> *"The principles of good governance – transparency and accountability; fairness and equity; efficiency and effectiveness; respect for the rule of law; and high standards of ethical behavior – represent the basis on which to build open government."*

15. A final example is the Good Governance Standard for Public Services that was drawn up by Independent Commission on Good Governance in Public Services in the UK. This identified six overriding principles for good governance

    - Focusing on the organisations purpose and on outcomes for citizens and service users
    - Performing effectively in clearly defined functions and roles
    - Developing capacity and capability of the governing body to be effective
    - Taking informed transparent decisions and managing risk
    - Promoting values for the whole organisation and demonstrating good governance through behavior
    - Engaging stakeholders and making accountability real

16. Whilst the examples above highlight some variations, there are clear threads and commonality in some of the principles underpinning what good governance look like. These include the accountability and transparency, rule of law, equity and performance (efficiency and effectiveness).

WHAT IS THE ROLE OF PUBLIC SECTOR AUDIT AND HOW DOES IT SUPPORT GOOD GOVERNANCE

17. Accountability and transparency are a key component in ensuring a robust public sector governance framework. As the UK Committee for Public Accounts noted in their Report on the Proper Conduct of Public Business what was needed was *"…a framework … (which) must include effective systems of control and accountability, and above all responsible attitudes on the part of those handling public money"*. Research by the OECD[2] indicates that *"the percentage of countries identifying transparency as a core public service value almost doubled over the past decade, [reaching] 90%."*

18. In considering the role of public sector audit in supporting good governance, "accountability" and "transparency" become the focus for the work that is performed. It is through its review of these two principles that its role can shine a light on other aspects of a good governance framework including performance, equity and rule of law.

19. Governments hold coercive powers over their citizens and businesses, including the raising of revenue, regulation, and maintaining law and order. In a democratic society fundamental to the exercise of these coercive powers is the requirement for those who are responsible for exercising them, whether that is elected ministers or councilors, civil servants or public service managers, that they are held accountable for the use of those powers in the delivery of public services, to those who use and pay for the services provided i.e. the electorate or elected representative. Therefore a fundamental principle is that those responsible for public business and handling public money must be held accountable, to ensure public resources are:

    - safeguarded and properly accounted for
    - used in compliance with the law and proper standards, and
    - used economically, efficiently and effectively.

20. Ministers and public service managers have primary responsibility for ensuring that public business is conducted in accordance with the law and proper standards, and that public money is handled with integrity and spent appropriately. However accountability requires that public entities be answerable for their actions and open to effective scrutiny by others, ensuring that there are effective checks and balances in the system. The following quote sums up the importance of this:

[2] OECD, Government at a Glance, 2009

"the need for financial accountability has existed ever since it became necessary for one individual to entrust the care of his possessions or business to another." – Committee to review the Functioning of Financial Institutions ("Wilson Committee") 1980

21. In most democratic countries, there is a clear separation of powers between the executive and legislature. The legislature is responsible for authorizing the budget or expenditure plans of the executive, and the executive is responsible for delivering their plans within the resources that the legislature has authorised, ensuring that they do so in compliance with laws and regulations and ensuring this is done efficiently, economically and effectively. The executive are responsible for planning and managing day to day operations and ensuring that they account for their use of resources. Finally it is their responsibility to report this back to the legislature.

22. It is then the responsibility of the legislature, as the representatives of their citizens, to review how the executive has used the resources that the legislature provided it with to carry out its activities. It is the exercise of this responsibility of the legislature that there is a clear and important role for external public sector audit.

23. To carry out their scrutiny roles effectively, Legislative members need objective and fact-based information about how well the Government raises and spends public funds. External public sector audit provides a key link in this chain of accountability between the executive and Legislature by providing independent and reliable information to the legislature, and also ultimately to citizens and users of public services. For example, where there is a lack of clarity between the roles of the executive and legislature or where the roles have not been carried out effectively, the external public sector audit could provide an independent assessment.

24. Some may consider the need for external public sector audit of the results and performance of the executive as a burden in the accountability relationship between the legislature and the executive. However an effective external public sector audit regime is a key component in reducing the risks inherent in the relationship between the legislature and the executive. As the Institute of Internal Auditors identify in their paper on the Role of Auditing in Public Sector Governance there are four inherent risk factors in the relationship between a principal (the legislature) and agent (the Executive)

- Conflicts of interest: Agents may use their resources and authority to benefit their own interest rather than the principals interests;
- Remoteness: operations may be physically removed from the principals direct oversight;
- Complexity: The principal may not possess the technical expertise to oversee the activity; and
- Consequence of error: Errors may be costly when agents are stewards of large amounts of resources and are responsible for programmes affecting citizens' lives and health.

25. The Enron example in the private sector provides a good example of how the issues and risk factors inherent in the principal and agent relationship can lead to significant failure if the governance arrangements are not sufficiently robust. As the CATO institute states in its Handbook for congress:

> *"The major lesson from the collapse of Enron and other large corporations is that the rules of corporate governance do not adequately protect the interests of general shareholders against the increasingly divergent interests of corporate managers. In other words, "the agency problems" that result from the separation of ownership and control…."*

26. There is clear correlation here to the relationships in the private sector between the owners of the companies (the shareholders) and the management of the companies (Board of directors) and the need for clear independent information through the external audit of the companies' financial statements to enable the shareholders to make effective decisions about their investment or for potential investors to decide about whether to invest. However, whilst there are clear correlations in the basic relationships and premise for need for audit, the nature of that external audit activity is wider in the public sector than in the private sector due to differences in objectives.

27. Whilst the private sector is driven by the profit motive to a large extent and financial performance is the fundamental measure of performance of a private entity, this is not the case for government and public sector entities. Their objectives are wide ranging and include political, social and economic objectives, the achievement of which cannot be measured from financial performance alone. It is also important from accountability perspective for public resources to be utilized and objectives achieved in compliance with the laws and regulations of the land. Therefore for public sector audit to effectively provide legislature with objective information on the performance of the executive, the scope of its audit work is wider in its nature than the financial audit required in the private sector.

28. The effective external audit of financial statements of public sector entities is still a fundamental component of an effective public sector audit regime to support the accountability model as described, as this provides assurance that the financial transactions and activities have been appropriately accounted for. However this needs to be accompanied with audit work that provides assurance that:

- Resources have been used to carry out the activities of government in compliance with laws and regulations, regularity audit;
- Resources have been used efficiently, economically and effectively in the delivery of government programmes and delivery of public services, value for money or performance audit.

29. It is only through the ability to carry out these differing strands of audit work that the external public sector audit can provide the legislature with appropriate and sufficient information to enable them to effectively hold the executive accountable for its use of resources.

30. However in recent year's public sector audit has moved beyond its traditional accountability role of reviewing and reporting on what happened, and started to look at ways that it can further increase its value by supporting public sector entities to improve. In the UK, Audit Scotland[3] encapsulated this dual role through the tag line "*Holding to Account, Helping to Improve*". Audit Scotland indicates that by also focusing on improvement, good governance can be further supported *"by looking forward, identifying where improvements can be made, and promoting good practice. In this way public sector audit contributes to improved standards of governance, better management and decision making, and more effective use of public money."*

31. The Institute of Internal Auditors[4] encapsulate this improvement role for public sector audit in terms of insight and foresight:

- Insight: Auditors provide insight to assist decision-makers by assessing which programs and policies are working and which aren't, sharing best practices and benchmarking information, and looking horizontally across government organizations and vertically between the levels of government to find opportunities to borrow, adapt, or re-engineer management practices.

[3] Audit Scotland, Corporate Plan 2009-12
[4] Institute of Internal Auditors, The Role of Auditing in Public Sector Governance

- Foresight: Auditors also help their organizations look forward by identifying trends and bringing attention to emerging challenges before they reach crisis proportions. The audit function can highlight challenges to come (such as from demographic trends, economic conditions, or changing security threats) and identify risks and opportunities arising from rapidly evolving science and technology, the complexities of modern society, and changes in the nature of the economy.

32. A clear example of the value that public sector audit can provide to good governance through a focus on improvement was given by the Honorable David M. Walker, then Comptroller General of the United States, June 12, 2006, to the Atlanta Rotary Club

    "Auditors should engage in oversight, insight, and foresight work. With regard to foresight, the United States' long range fiscal imbalance has been the subject of several reports by its supreme auditor, the Government Accountability Office (GAO). As the country's lead accountability agency, the GAO has undertaken the task of informing the Congress and the citizens of the United States about the serious financial challenges we face………….. The GAO has stated that initial steps to address this challenge include the need for a top-to-bottom review of existing federal programs, tax policies, and operational priorities."— "Saving our Future Requires Tough Choices Today,"

33. The importance of the role of public sector audit in supporting good governance through its role in supporting the accountability and transparency in the use of public resources is clear. It can also be seen that through this role it also provides clear support for other principles in a framework of good governance, the rule of law and efficiency and effectiveness.

A ROBUST PUBLIC SECTOR AUDIT REGIME

34. Whilst the existence of an external public sector audit regime is a key element in the accountability and transparency of the public sector, in itself it is not sufficient to provide accountability and good governance. The regime needs to be robust and operate effectively. This includes:

    - The public sector audit institution needs to be independent from the entities that it audits, have a sufficiently broad mandate, the right to report its work openly and the capacity, to enable it to provide sufficient objective information to the legislature on how the executive has used its resources

- Appropriate mechanisms for the legislature, or governing body of a public sector entity, to review and follow-up on findings and recommendations from the public sector audit institution, leading as appropriate to corrective action or sanctions

35. These requirements were effectively captured by INTOSAI, the umbrella organisation for the public sector audit community, at their 19th congress in Mexico (2007) where it declared eight core principles as the essential requirements of proper public sector auditing[5]. These are:

    - Principle 1 - The existence of an appropriate and effective constitutional/statutory/legal framework and of de facto application provisions of this framework.
    - Principle 2 - The independence of public sector auditor heads, including security of tenure and legal immunity in the normal discharge of their duties.
    - Principle 3 - A sufficiently broad mandate and full discretion, in the discharge of public sector auditor functions.
    - Principle 4 - Unrestricted access to information.
    - Principle 5 - The right and obligation to report on their work.
    - Principle 6 - The freedom to decide the content and timing of audit reports and to publish and disseminate them.
    - Principle 7 - The existence of effective follow-up mechanisms on public sector auditor recommendations.
    - Principle 8 - Financial and managerial/administrative autonomy and the availability of appropriate human, material, and monetary resources.

36. INTOSAI is clear that independence is considered the fundamental principle in the establishment and operation of a public sector audit agency or supreme audit institution. Without it there are significantly increased risks of conflicts of interests and outside influence affecting what a public sector auditor will examine and report. INTOSAI has stated that:

    - Public sector auditors can accomplish their tasks only if they are independent of the audited entity and are protected against outside influence.
    - To achieve this objective, it is indispensable for a healthy democracy that each country have a public sector auditor whose independence is guaranteed by law.

[5] INTOSAI – ISSAI10 Mexico Declaration on Independence

37. With respect to the mandate of a public sector audit institution, the preceding section clearly establishes the need for external public sector audit to have a wider scope than just financial statements audit, due to differing and various objectives the public sector has and the fact that performance cannot be measured solely by the bottom line.

38. The ability for a public sector audit institution to report openly to elected representatives or the governing body of public entities, and as appropriate to the wider public, is a key link in the accountability chain. Without this the accountability chain is broken, there is no transparency and it is not possible to held government or public bodies to account to those who provide them with resource to use.

39. However all of this is moot if it does not have the resources or capacity to deliver its mandate. No matter what its mandate is or its ability to report openly, if it doesn't have the skills or sufficient resources to deliver its mandate, or the mechanisms to obtain them, it will not achieve its objective of providing sufficient, objective based evidence to the legislature, and the wider electorate, on which to hold government and public entities to account.

40. Moving on to the mechanisms for the legislature, or governing body of a public sector entity, to review and follow-up on findings and recommendations from the public sector audit institution, leading as appropriate to corrective action or sanctions. If these do not exist or do not operate effectively, no matter what an public sector audit institution reports, there will be a detrimental effect on the accountability of government and public sector entities, particularly if the public sector audit institution does not have the right to report openly in public, or that right is compromised by the ineffective operation of legislative mechanism. For example, if the legislature does not have an effective mechanism to scrutinize ministers, officials or managers on how they have used public resources, based on the reports from the public sector audit institution, the findings and recommendations of the public sector audit institution will have limited influence, and are less likely to lead to appropriate corrective actions or the imposition of sanctions.

ACCOUNTABILITY AND PUBLIC SECTOR AUDIT EXPERIENCE IN THE CAYMAN ISLANDS AND THE WIDER CARIBBEAN

41. Looking at accountability and the public sector audit regime in the Cayman Islands, it is clear that the appropriate building blocks are in place, and the framework goes some way to support

independent and proper public sector auditing and reporting about how effective is public sector governance.

42. The model used is similar to the UK parliament model. The Legislative Assembly provides the resources for the Executive to undertake its plans and programmes on an annual basis, and has the role of scrutinizing how they use those resources. The Executive and their related entities are required under the constitution, and the *Public Management and Finance Law* to report financial performance at least annually, within six months of the fiscal year end. Under the constitution there is a Public Accounts Committee of the Legislative Assembly which has the power to examine the financial performance of the Government and all related public entities, and underlying this is the constitutionally independent Auditor General, from whom the Public Accounts Committee receives reports on the use of public resources.

43. However, experience suggests that accountability in the use of public resources has been severely compromised in recent years. In my report on Financial and Performance reporting in December 2010, I stated that *"timely, accurate and reliable financial information is a fundamental component in ensuring the effective governance and accountability of government and public entities. Without this information the decision making of the Legislative Assembly, the Government and public bodies is compromised as legislators and officials cannot: make effective and robust decisions regarding the allocation of resources; and, officials cannot effectively manage the resources at their disposal. Furthermore the Government and public bodies cannot be held accountable for how they have used public money."*

44. Since the introduction of the *Public Management and Finance Law* in 2004, timely, accurate and reliable financial information for government and public entities has generally not been available. There have been significant delays in the production of financial statements and annual reports from Government and its entities, in some cases up to six years. At the same time in a significant number of instances when the financial statements have been received and audited they have been found to be fundamentally unreliable, with information inaccurate and without records to support them. Even when entity financial statements have been finalised and signed off by me there have been further delays in providing that information to the Legislative Assembly by not tabling them in the House on a timely basis. Looking at the consolidated overall position for the Cayman Islands Government, this has not been prepared, audited and tabled in the Legislative Assembly since 2004.

45. This situation has only started to improve in the last 12 months, since the PAC took the issue forward publicly, based on reports from the Auditor General, which seems to be generating the political will. Prior to that there had been little concerted action across government to address the issues and restore public accountability, with nobody taking responsibility for remedying the situation. The PAC had not been operating as intended, and therefore there had been little formal oversight in a public arena of the officials responsible, and no administrative actions taken or sanctions imposed on those responsible.

46. It is not my intention in this paper to provide an analysis of all the underlying reasons that have led to this situation. Further details are available in the Auditor General's three reports on the issue. However, the point that I wish to illustrate is that without effective and open Public Accounts Committee scrutiny based on public reports by the Auditor General, the drivers for corrective action or sanctions for non-compliance become diluted, leaving ministers and officials to potentially undermine accountability in their use of public resources. Anecdotal evidence suggests that the effective operation of similar committees is an issue across the wider Caribbean.

47. In opening this section, I stated that current framework goes some way to support independent and proper public sector auditing. Reflecting on the key components of independent and proper public sector auditing, as discussed in the previous section, the constitution and statutory provisions appear to provide an appropriate framework in respect of the independence, mandate and reporting powers of the Auditor General.

48. The Cayman Islands constitution and supporting legislation and the *Public Management and Finance Law* clearly spell out the role, mandate and independence of the Auditor General. The Cayman Islands Constitution states that there shall be an Auditor General who shall have "*The power and responsibility to audit the public accounts of the Cayman Islands and the accounts and financial dealings of all authorities, offices and departments of Government and of all courts, and power to undertake value for money investigations in respect of the activities of such authorities, offices and departments*".

49. It further states that "*In the exercise of his or her functions, the Auditor General (and any person acting on his or her behalf in the exercise of those functions) shall not be subject to the direction or control of any other person or authority, save that the Auditor General is answerable to the Public*

Accounts Committee of the Legislative Assembly and must attend upon the Committee at its request."

50. The Constitution also indicates that the Auditor General shall be further prescribed in law. At present this is prescribed within the *Public Management and Finance Law* (PMFL), which again clearly states that the Auditor General is independent and clearly sets out his powers and duties.

51. However, other provisions with PMFL are incompatible with this stated independence. The first example is that PMFL clearly defines the Office of the auditor general as part of the core government. It states that "*core government" means the Legislative Assembly, the Governor in Cabinet, ministries, portfolios, the Office of the Complaints Commissioner and the Audit Office……"*. Whilst in itself this does not necessarily impede the independence of the Auditor General, it is the wider financial and resource implications of including the Office of the Auditor General as part core government, that impact on the effective independence of the Office.

52. In terms of the financial resources, the office does not have direct control over all its financial resources. As it is part of core government, it obtains financial resources through the Government's budgeting process which is directed by the Ministry of Finance, in effect enabling the Government to determine the resources available to the office. For example, we are in the current round of budgeting for the 2011/12 fiscal year and as a part of core government we have been subject to the same 5% reduction in our resources as all other parts of core government, on the direction of the Ministry of Finance, without consultation.

53. Secondly in terms of human capital, the Office is restricted in its recruitment and retention of staff. As part of core government the restrictions begin with the staffing establishment being set through the budget process directed by the Ministry of Finance, which are reinforced with requirements for all contract renewals and recruitment to vacancies to be approved by the Head of the Civil Service.

54. There are a number of other ways that the statutory provisions can affect the financial and operational autonomy of the Office of the Auditor General, but these 2 examples serve to highlight, that whilst the Auditor General is constitutionally independent, his role and his office is not administratively independent of government. The ability for him and his office to carry out its work and deliver its full mandate, is potentially compromised by the ability of government to control the resources at his disposal, and the Minister of Finance's ability to direct and make regulations affecting the Audit Office. The reality is that Government could affect the level and type of scrutiny

it and its public entities are subject to, potentially compromising accountability and governance in the Cayman Islands.

55. How does this translate to the wider Caribbean? The INTOSAI Development Initiative carried out a capacity building needs assessment across the Caribbean region during 2009 to identify the gaps and areas that needed to be strengthened to promote the effective and independent operation of public sector audit regimes. The survey highlighted that the capacity of public sector auditors coupled with the issue of administrative independence presented public sector auditors in the region with significant challenges that were considered needing priority attention. These included:

- having functional autonomy to manage operations;
- having and maintaining an adequate number of competent and experienced staff to discharge its functions effectively; and
- insufficient financial resources to fully carry out strategic initiatives

56. The results of this survey show that current environment and framework, around independence and financial autonomy, within the Cayman Islands is illustrative of issues affecting the effective discharge of independent scrutiny and audit of the use of resources by governments across the Caribbean region. When linked to the capacity issues identified in the survey, in terms of adequate resources and skills, the risks of compromising the effectiveness of the external public audit regime in supporting governance and accountability across the region are further increased.

57. For example, out of the five country papers submitted to VIIth CAROSAI[6] Congress, four of the countries, St Lucia, Trinidad and Tobago, Jamaica and Montserrat indicated that administrative independence was a significant issue in delivering their mandate, in terms of financial and human resources. The other paper submitted by Guyana indicated that this had been an issue until the enactment of a new Audit Act which came into effect from January 2006, giving the approval of financing to the Public Accounts Committee of the National Assembly after appropriate submissions from public sector auditors, and the power to appoint officers and set their remuneration and conditions solely to the Auditor General.

[6] Caribbean Organisation of Supreme Audit Institutions

CONCLUSION

58. Whilst it is not straightforward to articulate or define what effective or good governance should look like for the public sector, the various definitions or models do provide some consensus as to some of the key principles that underpin it. Amongst these are the core principles of accountability and transparency of the Government, and the public sector entities that support them in how they use the public resources at their disposal to achieve their objectives.

59. Following the model in many democratic societies, and certainly the model prevalent in the Caribbean, it is the Legislature that authorises the resources that Government and public sector entities have at their disposal to deliver their plans and programmes and achieve their objectives. As part this relationship, the Legislature's role in providing the authority to use public resources also vests in it the responsibility for Government to account for how it has used those resources, and whether they have done so efficiently and effectively.

60. As I have articulated in this paper, this accountability framework provides the clear basis for an independent and robust public sector audit regime to provide independent and objective evidence on the performance of government, to enable the Legislature to effectively hold the Executive to account, thereby supporting good governance in the use of public funds. Without this framework, there would be a clear gap in ability of legislatures, and by extension the electorate, to effectively examine how government has used resources.

61. The Caymans Islands example provides a clear illustration of where the key building blocks are in place for the public audit regime to support effective democratic scrutiny by the legislature of government's use of resource. However as it further indicates the arrangements need to operate as intended and if they don't there is the potential for effective scrutiny to become diluted, leaving ministers and officials to potentially undermine accountability in their use of public resources.

62. The Cayman Islands example also highlights that effective scrutiny could be further undermined by the public sector audit agency not being administratively independent with financial and administrative autonomy, as it may be subject to the whims of Government in respect to its resources and staffing. This results in the potential for government to effectively constrain the work that the public sector audit agency can undertake, or unduly influence it in respect of its audits.

63. As this scenario is not uncommon across the Caribbean, there is a risk to effective or good governance within the region, as the risk will remain that governments could effectively influence or affect how they are held accountable for the use of public resources, particularly if the legislature does not provide robust oversight.

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