



Principles for governance of separated
public bodies

Rob Laking

For OECD (PUMA)

Bratislava

23 November 2001



Process

- ◆ Brief description of draft principles
- ◆ Issues raised by discussion in Conference

Principles (1)

- ◆ No universal classification of organisations
- ◆ Intended to apply to any organisation – legally separate or not – exercising state authority with some autonomy: “duck test”
- ◆ Government remains ultimately accountable for acts of its organisations
- ◆ Governance problem is how state ensures that organisations carry out its intentions

Principles (2)

- ◆ Conceives governance problem as one of relationship between external and internal governance
- ◆ Assumes there are general “good governance” tests for principles: performance, legitimacy and accountability
- ◆ Corollary: these tests do not apply if good governance principles are not valid
- ◆ Principles are largely doctrinal rather than empirical (IFAC, SIGMA, OECD Corporate Governance etc)

External governance – general scope

- ◆ Creation and review
- ◆ Top-level appointments
- ◆ Setting organisational objectives
- ◆ Authorisation of budgets
- ◆ Monitoring and review of operations
- ◆ Decisions on “exceptions” (appeals, complaints) – the “fire alarm” function

Three spanning general principles

- ◆ Grouping organisations into classes
- ◆ Assigning specific governance responsibilities
- ◆ A generic law for organisations

Generic law

- ◆ Creation and removal
- ◆ How functions and powers defined
- ◆ Powers and duties of responsible individuals or offices
- ◆ Appointment and removal of officers
- ◆ Basis and content for agreements or directives
- ◆ Financial management
- ◆ Employment law
- ◆ Codes of conduct
- ◆ Reporting and review

Internal governance

- ◆ Form and role of top-level governance
 - Boards and their role
 - Chief Executive Officer
 - Accountabilities for direction and control
- ◆ Principles of accountability
 - Objectives
 - Reporting
 - Disclosure
 - Stakeholder relations
 - Codes of behaviour
 - Control and audit

Internal - external governance: balance

- ◆ Reconciling control and autonomy
 - Autonomy inherent in purpose (regulation, detailed case decision-making)
 - Autonomy contingent on quality of internal governance
- ◆ Policy autonomy
 - Applying law or decision rules to specific cases
 - Controls: publication of decisions, stakeholder monitoring & participation, appeal and redress provisions (e.g. executive, courts)
- ◆ Management autonomy
 - Shift from detailed external control contingent on high standard of internal planning, budgeting and control
 - Shift from input to output control contingent on quality of performance management based on results.

Issues

- ◆ Preconditions for good agency governance
- ◆ Coverage and classification of agencies
- ◆ External governance – role of Ministries and legislature
- ◆ Autonomy and core government
- ◆ Creation and review of agencies
- ◆ Top-level internal governance - need

Preconditions

- ◆ Are there preconditions for “general governance” which should be met before these principles for agency governance are relevant?
- ◆ What drivers are there on governments to improve the quality of their governance in general and agency governance in particular?

Coverage

- ◆ What “classes of public organisations” should these principles cover? Service delivery, regulation, grant-making bodies?
- ◆ Will the principles differ according to the class of organisation?

External governance

- ◆ What role do Ministries and departments play in the external governance of agencies?
- ◆ What should be spelled out in terms of their
 - supervisory role,
 - role in appointment of board members or senior managers or
 - their powers of direction or coordination of agency activity?
- ◆ To what extent should public organisations be directly accountable to the legislature for their activities and performance?

Autonomy and core government

- ◆ Why should increased autonomy apply just to separated non-departmental entities?
- ◆ What implications does the granting of autonomy in relation to financial management or employee remuneration have for the management of government Ministries and departments?

Creation and review

- ◆ Is policy implemented more flexibly and efficiently through separated organisations or do they entrench certain policy priorities which could be changed more easily in the programme content of a government department?
- ◆ If so, what provisions need to be made for review of the functions of public organisations, particularly with a high policy content to their role?
- ◆ Should a comprehensive review of the role and governance of existing organisations accompany the preparation of a framework law?

Top-level internal governance

- ◆ Under what circumstances do public organisations require boards and when should their role be executive, supervisory or advisory?
- ◆ What are the relevant credentials for Board members, in executive, supervisory or advisory roles? How are political, technocratic and interest-group representative roles balanced and reconciled?
- ◆ What are the direct responsibilities of public organisations to citizens in their different roles as customers, clients or subjects?
- ◆ Should Board members and senior executives be required to declare interests publicly which might conflict with their roles?