

# TRUST, ACCOUNTABILITY AND INTEGRITY

## THE SIR ROBERT GARRAN ORATION

**Delivered by Margaret Crawford PSM, Auditor-General for New South Wales – at the National Gallery in Canberra (and online) on 18 August 2023**

Hello everyone and thank for joining me today. It is good to see so many friendly faces in the audience. Old friends and work colleagues. And my sister Sheila. Thank you all for your friendship and your support today, and through-out my career.

I would like to acknowledge the Ngunnawal people, the traditional custodians of the land I am speaking to you from today and thank Jude for her generous welcome to country. I recognise the Ngunnawal peoples continuing connection to Country and culture and pay my respect to their elders, past and present, and to other families who have a connection to this land. I also extend my respect to any first nations people joining us today.

And hope that some of today's audience may get to view the remarkable indigenous collections in this Gallery.

Thank you IPAA for the invitation to present the 2023 Garran Oration, such a great honour that I could never have imagined when I began my public service career as a clerk class E-D (ie, the bottom!) in the State Library of Victoria, quite a few years ago! Let's just say a time when there were no computers, and certainly no flexible work practices.

In fact, one of my duties was to rule the red line in the sign in book at 8.45 am, below which you were recorded as late. I often signed my name below the line I had ruled, acknowledging I had arrived after 8.45, and subsequently reported myself to the principal librarian as a serial offender. I recall she berated me about punctuality without any acknowledgement of my honesty!

I had heard of Garran back then as I had lived in residences at the ANU. Not in Garran, but its sister hall, Burton. But my motivation for becoming a public servant had much more to do with my dad's insistence that I would have a job for life. Quite an outdated concept these days, but, as it turns out, public service has been my life's work.

It is customary to reflect a little on Sir Robert Garran, arguably our first public servant, if you discount the colonies. Afterall, there has been an Auditor-General in New South Wales since 1824.

My take on Garran is that he was the classic public servant, high integrity but also safe hands to get stuff done.

Former Prime Minister Bob Hawke, in his Garran Oration in 1988, said that Garran was the paragon of professionalism. He served 11 different Attorneys-General and 16 Governments, covering the spectrum of political affiliation. He served them all with absolute loyalty, and received their confidence and trust, setting a fine example of one of the most fundamental values of our Westminster derived system of government.

Wikipedia adds, Garran exhibited the unusual combination of political flair and detachment.

"Political flair and detachment".

It is worth us reflecting on these qualities in the current environment. The art of being very live to the politics while remaining objective and impartial in framing advice to government.

Over recent months thousands of words and been written and many voices have spoken on the theme of integrity in government.

I wouldn't be surprised if everyone in this room and those watching online, want a world where government can be trusted. As citizens we want to know our government is competent, reliable, and honest.

We have the right to expect that government puts public interest ahead of political interest. That it listens and strives to create the conditions for us all to prosper. Government should be fair, consistent, and transparent. And in so doing ensure our democratic system is protected.

Equally, we want to work in agencies where our advice is actively sought, preferably ahead of the announcement of major decisions. Our advice is evidence-based, objective, impartial and balances the perspectives of stakeholders.

Of course, our advice is fiscally responsible and focuses on the efficient, effective, and prudent use of resources, not biased toward or supporting a predetermined outcome.

Critically, given recent events, we want to work in organisations that weigh how decisions made may impact members of the community in different ways and we clearly communicate these impacts to our senior managers and political masters.

When decisions are made, we collectively ensure that good governance systems are in place to deliver the outcome sought.

Foremost, we work in departments that understand the legal framework that they exist within. Clear accountabilities are established, and delegations and authorisations are complied with.

We identify, manage, and escalate risks.

We maintain accurate and complete records, especially records of key decisions and the rationale behind them. And we report transparently on progress and measures of success.

We declare and manage any conflicts of interest and protect against fraud and corruption risks.

So, if this is the public service we want to work in why is our media full of reports of declining trust in government, not just in politicians but in the bureaucracy that supports them?

Why do we have royal commissions, special inquiries, investigations, reviews, audits, and the like, one after the other all pointing to fundamental failings of public administration and poor outcomes for citizens? And what do we need to do to get back to the state we aspire to?

Government is much more complex than it was when I started work in the State Library. It is extensive in scale and reach. And much of it works very well, delivering either directly or through diverse partnerships to the community, as intended.

We saw this in our audits of the response to Covid.19, for example. There was no blueprint for how governments should respond to such an unprecedented event. And generally speaking, we found that actions taken were well coordinated, evidence based, and agile. Where urgency meant some normal processes could not be followed, effort was made to address these gaps after the event.

And during this period measures of trust in government went up markedly!

But the harsh reality is that many of the 120 odd performance audits tabled in my term to date do not fare that well.

Of course, performance audits are targeted at areas where we think there is a performance gap. This is not just being mean! It is because like everyone we have a limited budget and so must direct it to areas we think need to be addressed.

But even in that context I have been shocked by the failings our audits have identified over the last few years.

I thought our public service should be able to get the basics right. I thought that at very least we would put in place the fundamental processes, systems and controls that support good governance and integrity.

But audit after audit reported that records were not kept or could not be found. And where they were found, they were sometimes overclassified to delay or prevent scrutiny.

Too often we found that staff involved in major procurements or commercial transactions had failed to complete conflict of interest declarations or follow procurement guidelines. And we have found too many examples where delegations were not in place or followed, and public money was spent without authorisation.

There is really no excuse for not getting these basics right!

Grants programs have been particularly disappointing, exposing the risk of public servants colluding with ministers to skew outcomes for political purpose.

Grants are an accepted way of distributing public money to achieve government policy outcomes for the benefit of the community. And in New South Wales (NSW), in 2022, around \$14 billion was distributed in this way. So, it's significant.

Payments are meant to be made when criteria are satisfied through a selection process, whether the process is competitive or more targeted.

The NSW Stronger Communities grants program was delivered over two years before the 2019 state election. Our audit of this program, tabled February 2022, reported that there was little or no basis for the selection of grant recipients, with around 96% of all grant money flowing to 22 councils in coalition electorates; reminiscent of the ANAO's equally critical 2020 "sports rorts" audit. Although in that case public servants had followed a rigorous process of assessment only to be overruled by a Minister.

It's still hard for me to believe that over \$250 million dollars was spent under the Stronger Communities program without guidelines or assessment criteria and little or no documentation of decisions.

And again, before the 2023 NSW election we reported that emergency grants intended to support communities most impacted by devastating bushfires were directed largely to coalition electorates and away from highly impacted local government areas in Labor-held electorates, including the Blue Mountains and Tenterfield Shire Council.

Directing emergency funding to areas for political favour as opposed to genuine need following disaster events is egregious and was roundly and rightly criticised.

To be fair, subsequent tranches of funding were distributed to some of the areas that missed out.

Arguably, it was too little too late to restore any sort of trust in government.

The failures identified in these and other audits around that same period could have been avoided if we had just got the basics right and if established processes had been followed.

Why weren't they?

I suspect that the gaps we were calling out were most often viewed as "boring". Red tape getting in the way of delivering for the government of the day.

The prevailing culture and tone from the top were just get it done, deliver at all costs and don't be "obstructionist". Everything was urgent. Non-compliance with legislative authorities or delegations were seen as "just technical breaches", not fundamental to the proper workings of government.

And sadly, we observed senior executives behaving like cheer leaders for the government's policy agenda rather than displaying Garran like qualities of "flair and detachment" by escalating risks and options.

Evidently, this was also the case at the Commonwealth level too.

As an example, David Crowe, writing in the Sydney Morning Herald on 9 June this year, used the analogy of a bus speeding downhill with a brick on the accelerator to describe the \$2 billion dollar Community Health and Hospital Program.

The ANAO audit of this scheme found it was undermined by deliberate breaches of the Commonwealth grants rules and failure to advise government where there was no legislative authority for grant expenditure. Their report states the Health Department's executive agreed to noncompliance because compliance would cause delay! It reported that a term was coined called "congestion busting" and staff that practised this were recommended for recognition awards.

Considering the recent findings of the Robodebt Royal Commission, this all sounds chillingly familiar.

So what's to be done to help restore trust in government? What must be done to regain respect for our craft- the flair and detachment to provide good advice and good governance?

As Gary Banks said in his Garran Oration 10 years ago, "The stable core of government, its deep enduring infrastructure, are the public service and public institutions. How these.....behave and perform are central to the public's trust in policy and in government itself". (Banks, Garran Oration, 2013)

What must we do?

Action is underway.

The Australian Public Service, under the leadership of the Public Service Commissioner Dr Gordon de Brouwer PSM, has commenced a comprehensive suite of reforms, both structural and cultural, that embed the value of stewardship and aim to rebuild a capable and impartial sector.

And we are also assured, appropriately so, that action will be taken to hold those responsible for Robodebt to account.

In New South Wales, we have new guidelines for grants administration which address all the recommendations made in our audit. Importantly, the guide includes mandatory requirements for officials, ministers, and ministerial staff. Compliance with the guide is enshrined in legislation passed by the former government. And that legislation has been further enhanced by the current government by including obligations that a minister must not approve a grant unless satisfied that it is an efficient, effective, economical, and ethical use of money, and achieves value for money.

This is a big step forward. Irrespective of the question of legality, porkbarrelling is unethical and a misuse of public money.

I also want to acknowledge the former NSW government's late term amendments that bolster the independence of the role of Auditor-General and ensure the Audit Office can get unfettered access to cabinet in confidence and legal professional privilege documents. The legislative amendments also provide that the Auditor-General can "follow the dollar" to examine the effectiveness of government funding and partnerships with non-government agencies. Long overdue concessions.

Finally, we have a national Integrity body for the Commonwealth, also long overdue. While the NSW ICAC has had its critics over its 33-year history it has done a thorough job and shines a light appropriately on corrupt conduct, especially "soft" corruption, which can be insidious and creeping. By "soft corruption" I mean things like undisclosed close personal relationships, use of government crests or offices or staff, to promote personal interests rather than public purpose.

Action is being taken. But is it enough?

I am very proud of the role my office has played in shining a light on processes that lack integrity and put at risk the community's trust in government. I think our audits, amplified by the NSW ICAC, raised the bar and changed the conversation in NSW, to focus equally on the "how", not just the "what".

ANAO audits in the same timeframe were similarly important and impactful.

But post-event assurance by watchdogs like Anti-Corruption Commissions and Audit Offices can't be the only safeguard to our Westminster system of government.

Arguably, they have their limitations as pointed out by Commissioner Holmes in the Royal Commission into the Robodebt Scheme.

Melissa Coade in the Mandarin reinforced this view stating that "few Australians would have expected the (se) watchdogs could have failed so monumentally in stopping something so plainly problematic". (The Mandarin, 13 July 2023)

And commentators like Stuart Kells go further arguing that our system of oversight is not effective sighting failures in aged care, the banking system, and water regulation.

Kells writes that every new fashion that has swept through public administration has had a new oversight body bolted on (Stuart Kells, Sydney Morning Herald, 23 Feb 2010). His thesis is that most oversight bodies only see a slice of the problem and we need to look at the system in its totality. (Stuart Kells, "Conflict Between Independent Scrutinisers of Transport Mega Projects, Evidence from Australia." February 2011)

So looking at our system, my contention is that, in large part, we already have the suite of arrangements necessary to deliver integrity and accountability in public administration.

This includes oversight by Parliaments as well as integrity and assurance bodies. We have legislation that governs spending and employment, and we have codes of ethics and conduct. We have a plethora of policy, procedures and guidelines governing everything from procurement, including the procurement of consultants and the rules for unsolicited proposals, through grants administration, to recruitment and selection processes, records management, cyber security and so on.

The cultural settings are also there. Most public servants have high integrity and want to make a positive contribution and do the right thing. They sign up to clearly articulated Values statements and celebrate diversity and inclusion. We have invested in staff wellbeing and provide flexible work practises. There will always be one or two bad eggs, but our established governance and oversight programs should be able to identify and act against them.

We don't need to overcomplicate things. We just need people to uphold and apply these established systems and processes regardless of the discomfort that may arise if, on occasion, they frustrate or embarrass the government of the day.

Therefore, a lot will depend on the leadership we choose.

My hope is that our leaders will value good process and systems, knowing they have the best chance of delivering good outcomes, and also recognise the safeguards they provide, not just for public servants but arguably for politicians too.

My hope is that our leaders will not cut corners because they face time pressures or demands from Ministers. They understand that while their experience may afford them the necessary judgement to cut through, less experienced staff will watch and emulate their behaviours.

And they know that regardless of time pressures, when faced with an ethical decision it is even more important to slow down and take the time needed to ensure the right decision is made.

My hope is that we choose leaders who are prepared to have a purposeful and frank conversation about the standard of integrity we will sign up to. This is needed because everyone has a slightly different view or measure of acting with integrity.

Take views on gifts and benefits, for example. Is it ok to attend a lunch meeting as the guest of one of the big four? Is it ok to accept tickets to an event at the Gallery because you have a role in arts administration? Is it ok to accept the good bottle of red as thanks for having delivered a speech?

I suspect we will have slightly different answers to these questions. That's why we need to thrash out an agreed standard of integrity. If we don't, the lowest common denominator will be the default position.

And my hope is that this standard will go further than a tick box exercise that ignores the fact that guiding principles have not been achieved. And as Peter Hartcher wrote recently “If it’s not illegal it’s ok- NO, we need a higher standard.” (Sydney Morning Herald, 1 July 2023)

Naturally the views and hopes I have spoken to today are framed by audits undertaken over the last seven years of my term as Auditor-General for NSW. But they are not just a set of recommendations to be implemented. They are far more important and central to restoring public trust in our system of government.

Why is this important? We just need to look overseas to find examples of jurisdictions in which governments’ lack integrity and corrupt practices are normalised, putting democracy at risk.

Garran was the creator of, and a believer in, strong institutions. Prime Minister Hawke’s second observation about Garran, in his oration, was that he proved to be an unquenchably creative force. Hawke said, “In a time of change, his creativity in building new institutions, developing practical solutions and creating workable machinery still stands as an admirable model for his successors today”.

Arguably, there is no stronger institution than the Australian public service, at each level of government, commonwealth, state and territory, and local. Its clear purpose is to assist the government of the day to deliver its policy agenda and priorities. But importantly, a key pillar of our democracy is a politically neutral public service that is willing and able to give frank and fearless advice to politicians in service of the Australian public. (Dr Millie Rooney, Australia reMAKE)

How it performs is one of the best protections we have to support our democratic system of government and avoid the failures we can observe in some administrations overseas.

As an Institution, the Australian public service has taken some hits in recent times and progressive failings have dented trust in public administration, and further alienated some people.

We need to do more than otherwise to rebuild that trust. We need to be fierce in defence of our system of government. We need to talk out loud, and often, about the importance of public institutions and integrity, transparency and accountability. We need to discuss and agree the standards we aspire to and what we need to do to embed these standards.

And perhaps IPAA can play a greater role in facilitating this discussion?

But we don’t need to overcomplicate our response. In most respects, we have the legal framework and policies and guidance already. We just need to take these seriously, to slow down on the things that matter and have the courage to do what we know to be the right thing; to be accountable. If we do, we will uphold the fundamental values of public service. We will act with integrity and get stuff done.

And, in conclusion, I have to say that audits are a gift to support you in this effort.

Unlike anti-corruption bodies, audits don’t normally target individual fraud and corruption. Audits are examining the integrity of the system of government, how all the parts work together to support good governance, transparency and accountability, and deliver great outcomes for people.

They are a gift. A gift for risk management and improvement purposes. A gift to protect the values of the public service we are committed to. My life’s work.

Thank you.

**Acknowledgements:** *In preparing this speech, I was privileged to discuss the topic with author and historian, Stuart Kells, whose work I have quoted. I also met with Michael Coutts-Trotter, Secretary, New South Wales Treasury who shared his thoughts on integrity in government administration, and I may have plagiarised his insights in places. Carlton Lamb helped me make a “boring auditor” speech accessible. Most significantly, I want to acknowledge and thank the staff of the Audit Office of New South Wales for the quality work they deliver every day.*