Parallels in Private and Public Sector Governance

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Private sector governance, i.e. governance in major listed companies, has caught much public attention in recent years due to the collapses of major corporations around the world. The result has been a plethora of standards for corporate governance in public and private companies. In comparison, public sector governance has avoided much of the controversies while developing along a parallel, if dissimilar path of raised awareness of the need for governance standards in the public sector. Examples of similarities that are markedly different in context are the role of agents, public sector managers manage funds on behalf the public versus the role played by managers in corporations, and the involvement (or expected involvement) of different stakeholders in both the public and the private sectors. This paper contrasts some of the differences in the models of governance found in the public and private sectors, and makes some observations about the desirable attributes to be sought in each.

Keywords:

Public sector governance, Private sector governance, models of governance

Introduction

In general corporate governance is concerned with the structures and processes for decision-making, accountability, control and behaviour at the top of organisations (Spiller, 2004). It addresses the issues arising from the interrelationships between boards of directors, such as interactions with senior management and relationships with the owners and others interested in the affairs of the entity, including regulators, auditors, creditors, debt financiers and analysts (Standards Australia, 2003). The purpose of good governance is to add value to the organisation, reduce financial, business and operational risk, strengthen shareholder confidence in the entity, and assist in the prevention of fraudulent, dishonest and unethical behaviour (Armstrong , 2004a).

The study of governance is concerned with various governance models. In the private sector these are found in the guidelines and standards for good governance. Examples relevant in Australia are the OECD Guidelines (OECD, 1999), the Australian Stock Exchange Guidelines (Australian Corporate Governance Council, 2003) and the governance standards developed by Standards Australia (Standards Australia, 2003).

In the public sector in Australia, both Commonwealth and State Auditors-General have presented models of Governance. An example is the Victorian Auditor's model discussed below and shown in figure 2.

Despite the fact that the general public seldom link the governance of the private sector with the public sector, governance in both sectors has been moving closer. As acknowledged by the Uhrig Review (Uhrig, 2003, p. 26):

> There are benefits in looking to developments and lessons learnt in the private sector when considering appropriate governance frameworks for the public sector. The environment in which the private sector operates creates significant challenges for companies. The consequences of failure and threat of takeover provide incentives for the private sector to constantly strive to improve governance practices. In dealing with the challenges of the market, the private sector has gained considerable experience in applying the core elements of governance. The experience of the private sector has provided the review with valuable insights into the full spectrum of governance arrangements and the corresponding impact on outcomes.

There is an opposing view (for example, Wettenhall, 2004) that suggests that governance experience in the public sector is long standing and that many of the criteria applied in the private sector are unsuitable for the public sector.

The type of governance model adopted is influenced by the type of organisation structure involved. In the private sector, the most kind of enterprise is governed by the Corporations Law. A 'company' which may be either a proprietary (private) or public company, i.e. listed with the stock exchange, but the law also applies to other entities such as partnerships and sole traders. Not-for-profit organisations may incorporate under the Associations and Incorporations Act in each State but since the board of the National Safety council, all volunteers, were held responsible for the losses of the corporation, the members of these boards are also responsible for decisions in the same way as the board of a company. Tomasic (2004) presents an overview of the rules governing corporations and in particular the duties and responsibilities of directors and other officers, the protection of stakeholder interests, and remedies for breach of corporate governance provisions.

Similar provisions apply in the public sector, but the form of entity and the context in which public sector organisations operate is much more complex. Public Sector orgnaisations with governance implications include a diversity of departments, statutory bodies (eg. Universities, Workcover), State owned enterprises, partly owned public companies (eg.. Telstra), public/private partnerships and various kinds of advisory committees. Partnership arrangements can include arrangements with other public entities, private enterprises and non-profit and service providers. The context is muddied by Ministerial directions, reporting requirements that may be to Ministers or Departments or to the public.

In most cases the elements of both private and public sector governance models (see Table 1) refer to the governance structure of organisations (see for example, Standards Australia, 2003), the underlying principles, values and ethics of an organisation (Francis, 2004), the relevant law (Tomasic, 2004), and the theories held by different disciplines about good governance mechanisms (Armstrong, 2004b).

Table 1. Some of the elements included in models of governance

Structures	**Organisation models**
Values	**Accountability** **Transparency** **Honesty** **Integrity** **Diligence** **Diversity** **Equality** **Excellence**
Principles	**Governance policies** **Role, powers, conduct of board** **Provision of governance infrastructure**
Relevant law	**Constitutional** **Statutory (Corporations, CAC) Law** **Regulatory (OH&S, Whistleblower protection)**
Good Governance Mechanisms	**Leadership** **Direction** **Control** **Authority** **Stewardship** **Accountability**

Several organisations have identified values relevant to governance. For example, Standards Australia (2003) in its Good Governance Principles lists the values: accountability, transparency, fairness and balance, honesty, dignity, goodwill. Another value often stated in the private sector is customer service. The Victorian Public Administration Act 2004 sets out values of responsiveness, integrity, impartiality, accountability, respect and leadership. Victoria University has its own set of values: knowledge and skills and critical and imaginative inquiry, equality of opportunity for students and staff, diversity, co-operation, integrity, and excellence.

The principles which enable good governance are governance policies, infrastructure and actions to be taken to implement various good governance measures. The latter refer to board composition including selection and member skill profiles, the method of appointment of directors, structure and membership of audit and other committees and board operations and procedures. These complement the mechanisms for achieving good governance. Good governance mechanisms refer to the processes that provide answers to the question how well is the organisation managed and are demonstrated through the assessment of leadership, direction and control, authority, stewardship, and accountability.

Leadership refers to how well the chair and board set the strategic vision and direction for the entity and add value to the program. It relies on clarity about roles and responsibilities and compliance with ethical and governance standards. Stewardship refers to the structures, systems and processes for decision making and control, communication and financial responsibilities, risk management and compliance. Accountability address standards of behaviour and systems in place for auditing, risk management and reporting procedures. Some differences in governance between the public and private sectors are listed in Table 2.

Table 2. Some differences in governance between the public and private sectors

Governance	**Private Sector**	**Public Sector**
Organisation structure	Enterprise: Outsider/insider models	Department Statutory Authority State owned enterprise Private/public partnerships
Regulation	Corporations Act Regulated	Commonwealth Corporations Act State Owned Enterprises Act 1992 Statutory legislation Regulator and regulated
Agents	For Shareholders	For Public
Objectives	Profit	Public good
Origin of Governance model	ASX Standards Australia	Auditors General Public Service Commissioner
Authority	Board	Government Minister/s Department Board
Responsibility	Legal Responsibility of board	Responsibility diffused
Independence	Legal Independence of board Selection and appointment of	Ministerial control

Governance	Private Sector	Public Sector
	members	
Accountability	To shareholders	Diffuse
Reporting	Annual Report to shareholders	Ministers Parliament Auditor general Agency Heads Treasury and Finance

Public and private sector governance in essence share some basic common characteristics. It is the context in which they are embedded that drives the differences.

The similarities are: in the private sector, managers acting as the agents for shareholders oversee the day-to-day management of the listed company. In parallel, in the public sector, the officials of the public sector (the public servants) acting as the agent of tax payers manage the public organisation for the purpose of serving the best interest of the general public (although it is often debatable on what is really the best interest for the general public). In terms of managing the interests of various stakeholders, in the case of the private sector, now, there is an increasing consensus among controllers of publicly listed companies that the company should not only serve the best interest of the shareholders, it should also consider the interest of other stakeholders of the company such as the interest of employees, customers, suppliers as well as the interest of the local community where the corporation is operating. In the case of the public sector, various levels of governments will have different stakeholders but the ultimate aim is to serve the public interest and provide services to the community on behalf of the government (Uhrig, 2003, p.30), and at the same time to provide adequate solutions when market failure is likely to happen (Uhrig, 2003, p.32).

Differences between the public sector and the private sector governance are also obvious: they serves different interest groups and the public sector is subject to much greater scrutiny. The independence is a major difference. All public sector entities are subject to Ministerial control and auditing by an Auditor-General; they must meet performance targets and they are constrained by political reality. In addition, usually the appointment and removal of chair and CEO is at the discretion of the Minister. Another related difference is that should an enterprise fail, it goes out of business and the owners lose their investment. Government enterprises are more likely to be rescued and losses absorbed even if the enterprise is closed down.

Given the many similarities and differences of corporate governance in both the private and public sector, this article will confine its attention to the relationship between the organisation structure and different corporate governance models in the private sector and the public sector.

The questions addressed in this paper are: What are the major governance structures in the private and the public sector? What are the essential similarities and differences in the models? What conclusion can we draw from the state of governance in the public sector and the private sector overall?

Corporate governance in the private sector

Corporate governance models around the world can be categorised into two major types, the insider-based model and the outsider-based model (Mayer, 1994). The insider-based model is represented by the corporate governance models in Germany and Japan and the outsider based model is represented by the model in the US and the UK, which corporate governance model in Australia is a subset of (Cheffins, 2002). A detailed discussion of the major similarities and differences of the two major types of models is provided by Jia (2004). In this paper, the focus will be on the corporate governance model that listed companies in Australia belong to. The standard corporate governance model in Australia in listed companies is illustrated in Figure 1:

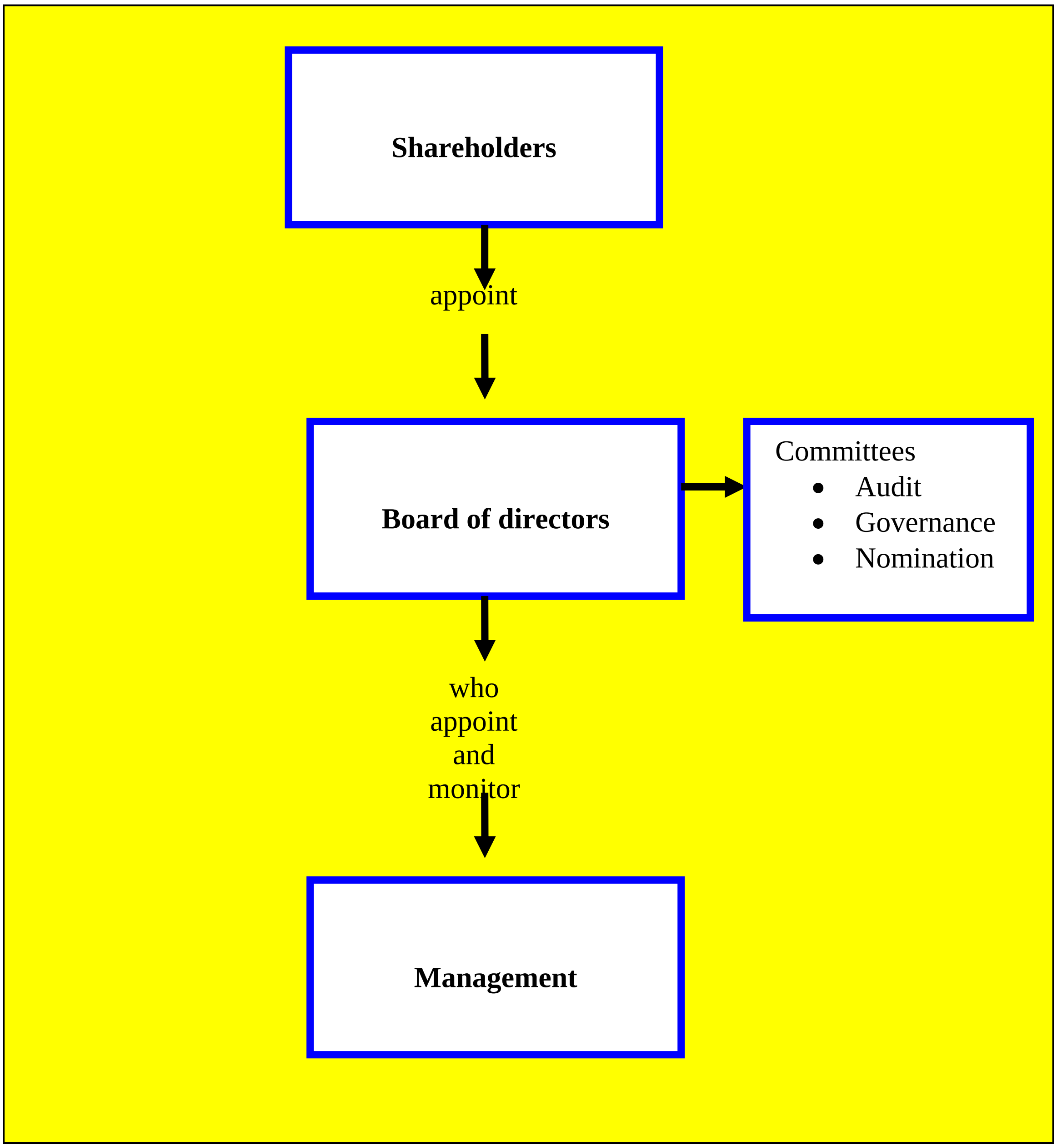

Figure 1: Governance in the private sector

As listed in Figure 1, the dominant corporate governance model in Australia, which is a subset of the Anglo-American model, can be described as follows: The shareholders appoint the board of directors, who appoints and monitors management. The result of these series of agency relationships have ultimately put management as the controller of the corporation, who oversee the day-to-day business of the corporation. Senior management has the most intimate knowledge of the company and therefore really controls the corporations. The "agency problem" – that is, that management in control of the corporations could pursue their own best interest other than the best interest of the shareholders (see further Berle and Means, 1932; Jensen and Meckling, 1976), is one of the major corporate governance problems in Australia as well as in other Anglo-American economies. To alleviate the agency problem, independent directors were introduced to the board in the hope that they would provide a better monitoring mechanism to management. Board committees could also be set up to help address specific issues better. For example, as recommended by the ASX Corporate Governance Council (ASX corporate Governance Council, 2003), the following committees should be established in the board: a nomination committee, an audit committee, the risk management committee and other relevant committee to risk management, and a remuneration committee. The different roles played by various committees are listed as follows:

The responsibility of the nomination committee should include (ASX corporate Governance Council, 2003, p.22):

- Assessment of the necessary and desirable competencies of board members
- Review of board succession plans
- Evaluation of the board's performance
- Recommendations for the appointment and removal of directors.

The aim of establishing audit committee is to ensure 'the integrity of the financial statements of the company and the independence of the external auditor' (ASX corporate Governance Council, 2003, p.30). The risk management committee is to ensure there is a systematic approach to managing the level of risk exposed by the company (ASX corporate Governance Council, 2003). Lastly, the remuneration committee is to ensure that a proper system of performance evaluation and incentive system is available to evaluate and remunerate senior executives. In the next two sections, corporate governance models and practices in the public sector will be reviewed, before a detailed analysis of the comparison the two sectors will be provided.

Corporate governance model in the public sector – an overview

In general, governance in wholly owned government business enterprises (and partly owned, such as Telecom) comply with legislative and auditor requirements that are similar to those of corporate law in the private sector. However, more innovative governance is concerned with arrangements for entities such as advisory boards and partnerships that do not exist in the same way in the private sector.

The existence of somewhat autonomous Federal and State government systems in Australia suggests that corporate governance practices and mechanisms could take different forms despite the adoption of the same principles across the board. This discussion describes the model of governance that is applied, in the public sector by the auditor general in Victoria, an example of a partnership model of governance and some of the difficulties in applying governance principles to the newly emerging models of community governance.

A governance framework proposed by Victorian Auditor General Wayne Cameron in 2003 clearly illustrates different elements and the relationships among them, see Figure 2 below:

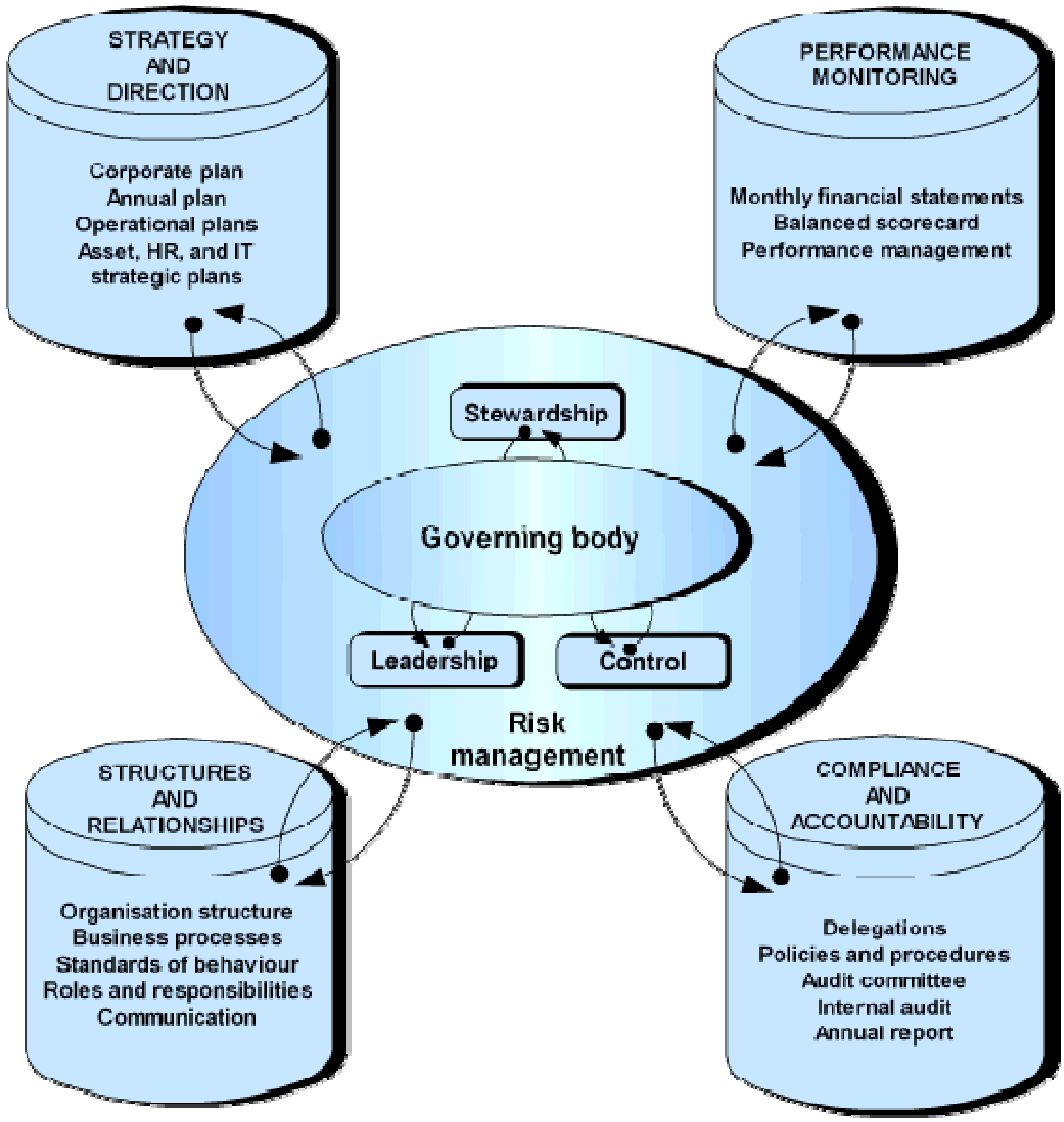

Figure 2: A governance framework

Source: http://www.audit.vic.gov.au/speeches/agspeech_06.html

This framework provides a comprehensive picture of how corporate governance should function at the public sector as explained by Cameron (2003, p.5)

> Leadership, stewardship, management control and risk management are included at the centre to ensure that they are not overlooked by those holding governance responsibility.

The four pillars of the governance framework, i.e., strategy and direction, structures and relationships, performance monitoring, and compliance and accountability will also help to ensure the whole governance framework functions properly (Cameron, 2003).

In the pillar of structures and relationship, board and minister-board-management relationships are deemed two important elements (Cameron, 2003). A similar type of governance arrangements and good governance criteria were also explained by Barrett (2000). Furthermore, Uhrig (2003) report provided detailed suggestions on guidance of governance arrangements of a board such as the size of the board and whether board subcommittees should be established etc. In terms of the relationship among the minister, the board and the management, it is recommended that (Cameron, 2003, p.9):

> Ministers should be free to determine how best to undertake their responsibilities, but core features should include regular communication and formal reporting arrangements with the board against agreed objectives.

Unlike the board committees that operate in the private sector, which have their own independent decision making power, the board committees set up in the public sector are only to (Uhrig, 2003, p.97):

> assist in the efficiency of operations and for reasons of accountability, (and) committees should operate with a clear written mandate from the full board. The operations of committees should also be agreed including how committees will report to the bard and how committees will interact with management and other relevant parties. This will clarify whether a committee has the power to make decisions and approve management proposals or report to and make recommendations to the board.

Besides the board committees, there usually exist an advisory committee in the public sector that provide advises and recommendations to the minister of each statutory authority. Therefore, it is also useful to distinguish between a board appointed to manage a government business corporation and an advisory committee.

The differences between the responsibilities of government sector boards and advisory committees are: in the former the executive board is not seen as a representative institution but is appointed, usually by Legislation, to be responsible for the vision of the organisation and overseeing its execution. The accountabilities include financial and other legal responsibilities and consequently, the board acts with independence in setting its targets and its structure may include subcommittees responsible for such things as audit, governance and appointments. Auditing is conducted by the Auditor-General and a formal report is made to the Minister. Membership is based on the merit principle and the requirements of a board for particular skills or expertise.

In contrast, an advisory committee is often a representative committee, appointed by the Minister. There is little independence and accountability rests with the Minister or Senior Officer of the relevant government agency. In making appointments the key criteria for appointment is often the extent to which members represent some particular group or constituency.

In the public sector, apart from the general model of minister-board-management, there are also different governance arrangements such as the partnership model of governance in the Health sector and the community, and the emerging network governance in university governance.

Corporate governance model in the public sector – The partnership model of governance

The governance model in the public sector in Australia stems from Australian adoption of the Westminster model, in which the accountability, in theory, runs through ministers to parliament. Some current practices in Australia have led to diffuseness in responsibility. For example, the partnership model of governance offers a new structure that challenges the traditional hierarchical authority structure of government.

The governance structures of some government entities fall somewhere between a board and an advisory committee. An example is the HealthSMART Board which has a different structure to either an Advisory Committee or the Board of a government business entity. (HealthSMART is the Victorian information technology program for the health sector). Although it is called a ‘Board’, it does not exhibit many of the characteristics expected of a Board. It does not set the strategic directions of the program, appoint or review the performance of its Chair or Chief executives, control the budget, report on activities, and has no autonomy nor independence. This is not unusual of many boards in the public sector.

Members are appointed to represent the stakeholders in HealthSMART. It has four subcommittees each of which is responsible for implementing one of the HealthSmart programs that are part of the total package. The Chairs of each subcommittee are members of the Board. Where the Board differs from many other government sector boards is in its responsibility for decisions about a major government business enterprise which not only is involved in services delivery but is also a major commercial enterprise.

This ‘partnership’ model includes representatives of other agencies on the Board but, not being legally constituted but appointed within the Department of Human Services (DHS), it does not have the legal accountabilities of a formally constituted board. In keeping with the ‘partnership’ concepts espoused by the Victorian Government in ‘Growing Victoria Together’ the HealthSmart Board can be seen as a partnership model of governance which incorporates the representatives of those stakeholders who have a vested interest in the success of the new systems.

The HealthSMART Board consists of thirteen Members, representing DHS, Executive Directors and senior representatives of metropolitan health services, rural alliances, primary and community health agencies, key government stakeholders and independent specialists. The Director of the program and the Executive Officer are in attendance at Board meetings.

The Chair of the Board is the Secretary, Department of Human Services. The Deputy Chair of the Board is the Executive Director, Metropolitan Health & Aged Care Services, Department of Human Services. The Board is supported by four Steering Committees, the Chairs of which are also Members of the Board.

The Chairs of the four Steering Committees are responsible for the four HealthSMART projects: Resources Management (financial and HR), Clinical, Patient and Client Management, and Shared Services which is intended to integrate and provide management and support for the systems projects.

The Board is not constituted by legislation and the Members are not ‘Directors’ of a public entity and consequently not required by law to comply with the duties of directors specified in the Public Administration Act 2004.

Governance in the public sector – community, partnership, and network governance and engagement

Similar forms of governance, also termed ‘participatory governance’ or ‘network governance’, represent a preferred DHS model for managing partnerships with the not-for-profit sector. The inclusion of representatives of other Agencies is in keeping with the Victorian government’s commitment to ‘whole of government’ and ‘joined up government’ policies and practices intended to encourage different agencies to work together to resolve complex problems and achieve common goals and objectives.

The purpose of ‘whole of government’ and ‘joined up government’ policies is to co-ordinate the resources of departments to address complex community problems. In studies of community governance (Armstrong and Francis 2004) discussed more fully below this approach has been found to be very successful in bringing departments together under the auspices of police or local governments to address problems such as crime, youth delinquency, and community safety. The major problems are the lack of accountability, departments have difficulties in recognising the performance of those involved and there is still reluctance to share information between departments.

In the University sector an approach intended to link universities into the communities in which they are located (place management) is termed ‘community engagement’. This approach to university governance is not only proposing to bring representatives of industry and other stakeholders on to university councils but also to have them linked into academic structures. For example, representatives of the community could sit on Academic boards and course development and assessment committees (Harman, 2005). The long term advantages for universities are the increased access to private sector funds and sponsorships. The disadvantages may be loss of opportunities for innovation and creativity and of academic independence.

Community Governance

Another area of corporate governance in the public sector is singled out due to its different arrangements of stakeholders is community governance. The concept of community governance has been widely adopted in many countries including the UK, New Zealand, United States, Canada and Australia. Within loc term is often used synonymously with the term local governance. Community governance is defined as community level management and decision making that is undertaken by, with, or on behalf of a community, by a group of community stakeholders. In a new framework for governance, government services across administrative levels co-ordinate their activities and develop partnerships with local government, business and other government agencies, in joined up government (which is the sharing of data, information and knowledge across government agencies and community groups), and promotion of community ownership of and capacity to address local community problems. Encouragement of partnerships across agencies is termed a 'Whole of Government' initiative. The whole of government approach brings together different government departments to address community problems which are seen as having multiple causes, effects and remedies in order to enhance the global effectiveness of policies and minimise conflicting action. Civil society and the corporate sector are invited to participate in collective decisions and are encouraged to translate their involvement into concrete initiatives.

The results of a recent study (Armstrong, Francis and Totikidis, 2004) found that the components of a successful model of community governance were sound committee structures and partnership arrangements. In particular, it is essential to specify responsibilities, accountabilities and reporting arrangements.

This approach to community empowerment and building community governance is a fundamental change, a paradigm shift, in assumptions and values about managing community problems. It also raises questions about: what are the appropriate governance arrangements for the community governance organisations to ensure responsible and successful performance; and what are the governance arrangements for governments which allocate resources across departments or to stakeholder organisations over which they may have little control.

In considering the theme of *parallels in private and public sector governance* it is important to note that the terms corporate and public sector governance both apply to the organization or corporation whereas the term community governance refers to whole of government and partnerships activities and interventions in relation to the community. While there may be similarities between forms of governance on an organisational or micro level, it is at the community level that these differences are most pronounced. The private sector is essentially about economic gain whereas the public sector is about community well being, including broader social, cultural, environmental and economic aims. It is at this level that the sectors can never converge.

Summary

From the analysis, it could be inferred that the public sector governance including community governance is not totally new, and is probably at least as old as corporate governance in the private sector – governance in publicly listed companies. In terms of governance in the public sector, what is new is probably their elevation to a position where their introduction is supported by government policy. Their successful implementation is dependent not only on this mandate but also on the use of psychological constructs and practices that build such things as commitment, trust, and social capital.

This paper also illustrates that there is a parallel development of governance arrangements in both the private and the public sector. Those parallels suggest that governance issues have indeed became an intrinsic part of good management of both the public and private entities. Adopting the same basic good corporate governance standards, the public sector and the private sector developed (in parallels) each own unique governance models, practices and mechanisms that suit each individual organisation's circumstances. The adopting of good governance and basic standards across the board will also help the public sector and the private sector to learn from each other the best practices in each sector and help to improve governance in the future.

This article by analysing and demonstrating the various corporate governance models in the private and the public sector enhanced our understanding about governance across the board. This type of good and systemic understanding will support researchers to explore further into both the private and public sector governance research.

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