A PAPER PRESENTED BY GAVIN WOODS AT THE "MAKING OVERSIGHT EFFECT" WORKSHOP OF THE 11th INTERNATIONAL ANTI-CORRUPTION CONFERENCE - HELD IN SEOUL, SOUTH KOREA ON 25-28 MAY 2003

Background

During the 1980's and early 1990's a prominent body of literature emerged which proclaimed "the decline of the legislature". It argued that the legislature was losing its authority as an oversight institution - leaving it less able to act as a check on executive power and to undertake effective scrutiny of executive actions. The reasons for this decline were attributed to various failures of legislatures:

- failure to counterbalance the power of executives which very often had the political influence to suppress and even manipulate the legislature in order to discourage it from critical scrutiny.

- failure to keep up with expanding executive bureaucracies in terms of information and the necessary resources. Having insufficient secretarial and research support exacerbated the situation.

- failure to have its members gain the subject knowledge and technical expertise necessary to discuss, investigate and seriously question the executive actions and performance that came before it.

- failure to exercise effective budgetary powers i.e. through being denied the latitude to increase expenditure or reduce income

In terms of the doctrine of the separation of powers, this amounted to a regressive state of affairs which undermined the power arrangements intended within Parliamentary Democracies. This caused observers and participants (especially members of opposition parties), to become pessimistic about legislatures fulfilling their intended role - especially where legislatures had become resigned to playing a less rigorous oversight role than is required.

A New Oversight Era

Against the problematic situation described, this paper will now explain how possibilities for significant change have recently opened up in a growing number of countries. Here, it will explain how these possibilities, flowing from a new era public sector financial management reform, have arisen and given legislatures a clear opportunity to meet most of their oversight responsibilities.

These financial management reforms have evolved out of the New Public Management school of thinking and its advocacies towards the public sector adaptation of successful private sector systems. The reforms, which modernize the way in which governments plan and manage the spending of state finances, began in the late 1980's and have today been introduced in a number of progressive countries including the Australia, New Zealand, Canada, the United States, the U.K and South Africa – most of whom have as a result experienced significantly improved spending and delivery performance. To help explain these reforms, this paper includes a diagrammatic model which aggregates the reformed financial management systems of 10 countries.

The model also shows how the modernised systems lay the basis for much enhanced oversight by legislatures, including oversight over policy implementation, spending disciplines, social service delivery and other areas of government performance - in other words all oversight areas except for law-making.

The Financial Management Model – the annual planning stage

The model and its systems comprise two stages, a planning stage and an operations stage. The planning stage, which coincides with the annual budget preparation cycle, includes the following parts:

Policy Objectives

State planning in a democracy should begin with policy objectives - as it is against stated policy objectives that the voting public choose and give a governing mandate. As such, it is against these objectives that government enters into a contract of accountability with the citizens of a country.

Strategic Planning

With the policy objectives in mind each state institution undertakes an annual strategic planning exercise and produces a plan - showing how, through modern management methods, the policy objectives are to be converted into the delivery of services and other intended activities. It substantiates how predetermined and measurable outcomes will be established and through which the objectives will be met – in the most economical, efficient and effective way – in other words in the best value-for-money way. A related date-linked Service Delivery Plan (SDP) is also produced. This all amounts to the equivalent of a formal Business Plan with built in performance criteria.

A Medium Term Expenditure Framework (MTEF)

The strategic planning is then used to revise the previous years MTEF. The multi-year approach (usually three years) assists planners to factor their policy goals into a more useful time frame and allows for a more realistic prioritization and allocation of resources – especially for infrastructure related projects. .

The Annual Budget

Year 1 of the updated MTEF then gets developed and refined to produce the budget for the forthcoming financial year. This is a more exact exercise where performance goals are set and described in input and output terms and are allocated to specific activities, projects and programs. The budget is then formulated to meet the structure and detail of the accounts as per the accounting system. These should conform to the IMF's GFS and SDDS classifications.

Costing of Activities

In order to be credible, each budgeted expenditure item should be costed to ensure that the outputs and other performance objectives constitute an acceptable value-for money level. Activity Based Costing methods (ABC) is becoming the accepted public sector costing approach. The non-financial Key Performance Indicators (KPI's) should be consistent with the costed outputs.

The Management and Accountability Information – Planning stage

A number of informative documents are produced through the planning stage. These are published and tabled in the Legislature as public documents.

- The full Strategic Plan
- The MTEF
- The Annual Budget – which is accompanied by the following:
  - The economic assumptions upon which the budget is based
  - Fiscal policy priorities (including debt management)
  - Revenue trends, income distributions and tax proposals
  - Asset and liability management
  - An expenditure analysis and Service Delivery Plan (SDP) for each state institution – each of which details the following:
    - -Quantifiable output and qualitative outcome objectives
    - -KPI's
    - -Comparable expenditure patterns and results from the previous year.

The Financial Management Model – the annual operational stage

Next we look at the corresponding operational stage, which is where government (over the course of a financial year) sets about working towards the years budget goals and its accompanying performance linked delivery plans.

From the financial management perspective, this stage is really about the accurate and efficient capture of activity-related information into the accounting and output recording systems. The accounting information must correspond with the format laid out in the budget and must comply with generally accepted accounting practices and standards. Accrual accounting methods are an important part of this – and this is what allows for income statements and balance sheets to more accurately reflect the actual activities and financial state of health of an entity in a given period. The accounting standards should be established and monitored by the officially recognised accounting standards authority in a country.

That, in broad terms, represents the new financial management approach. While based on simple conventions, the full model could be described as being complex and therefore only appropriate to the better capacitated developed countries. (As an issue aside, the writer of this paper has formulated two variations of this model which comprise less onerous systems configurations without sacrificing the more essential reforms. These propose how to modernize financial management and oversight in the less developed countries – taking into account their serious capacity and resource constraints).

The Management (and Accountability) Information – Operational stage

This information constitutes the record of the actual financial activities and actual output results over the course of a financial year. Once produced this evaluated against the budget and its accompanying plan. The information, which should be automatically produced in predetermined report form by a Management Information System, includes the following:

Monthly	Expenditure comparisons (to budget) - for each state entity and for each expenditure item within that entity.
Quarterly	Expenditure on an accumulated basis for the quarter and year-to-date. Performance reports include actual performance - vs. the SDP, vs. the planned outputs and vs. the KPI's. .
Annual	The Annual Report comprising:

An income statement and balance sheet produced through the accrual accounting method.

Details of an entity's programs/activities, showing:
- actual financial and delivery performance results and how these compare to the planned results with reasons for any material failure to meet SDP and policy objectives
- actual financial and delivery performance results in comparison to the previous financial year

-details of disciplinary actions taken against officials
-details of any material losses incurred
-details of transfers
-details of income

The Audit Committee's report – which reports on the work of the Internal Audit Unit with particular reference to the state of internal controls and the management of risk.

The Supreme Audit Institution's (SAI) report which should include reporting on:

– compliance with the overall financial management systems,
– the credibility of the budget's value-for-money targets (through assurance of the costing exercises),
– the quality and representivity of the financial information and its presentation through the operational reporting stage.
– The recording of outputs achieved

(note: as opposed to relying on a sample approach to randomly discover problems, the SAI can now be directed through the above reports to where actual problems exist)

Oversight by the Legislature – the emerging possibilities

Being armed with the information which spells out both what government undertook to do - and what it actually did, enables the legislature to play an incisive oversight role which adds a vital impetus to the overall performance of government – and thereby to services received by the citizens of a country.

An oversight issue apart concerns the legislatures obligation to monitor the implementation of, and to ensure full compliance with, the new systems. Strangely, legislatures in a number of the reformist countries have failed to demand the full range of accountability arrangements and oversight opportunities available.

To take up these opportunities it is of course necessary that the legislature and its committees scrutinize the executive governments performance - as reported, and where appropriate, demand explanations, corrective plans of action and details of any sanctions applied from the executive, the Accounting Officers or through the Audit Committee or SAI. The relevant committees of the legislature include the Public Accounts Committee, the Budget Committee, the Finance Committee and the various ministry aligned portfolio or select committees. The permutations and names of these committees differ from country to country.

-Oversight opportunities from the planning stage

Documents produced through the planning stage to be considered by the legislatures committees include:

The strategic plan	committees to examine the policy objectives and the goals of each entity to ensure that these are in terms of the voter mandate and to see that the entity has applied its mind as how best to approach its responsibilities.
The SDP	committees to appraise the particular services, the recipients of those services and the intended delivery dates.
The MTEF	committees to look at governments longer term thinking and the continuity of its policy implementation. Information relating to the timing of infrastructure projects, spending trends and patterns, fiscal policy direction and the state's debt position should also be of interest.
The annual budget.	The zero based and output linked nature of the budget places committees in a very informed position to assess the budget. This together with the detail of the performance standards and KPI's places the committees in a very informed position before voting on the budget in the legislature.

-Oversight opportunities from the operational stage

Reports produced through the operational stage to be considered by the legislatures committees include:

Monthly	While the monthly reports (actual spending vs. budgeted spending) are mainly for management use, in the case of a problematic government operation, the relevant committee might see the need to call for the monthly reports in order to monitor the situation.
Quarterly	For the committees to study the performance reports and to establish where KPI targets are not being met. To establish reasons from the operation concerned. To interrogate the responsible officials (and even the Minister) if necessary. To call for a corrective action plan. To report to the legislature – making recommendations where appropriate.
Annually	The Annual Reports are far and above of greatest oversight interest and value to the legislature and its committees. The committees are in a very strong position to compare the actual results, as contained in the Annual Report, against the budgeted spending (including efficiencies and economies) and the measurable objects such as the pre-established outcomes, outputs and KPI's (produced in the planning stage - and then to take up material issues of concern with the relevant state institution. The committees would ideally scrutinize the reports with a view towards: -Meeting of the service delivery objectives – especially in terms of actual physical outputs -Establishing whether the more difficult to measure outcomes are being reached e.g. That the criminal justice system is well established or that the standards of secondary education are sufficiently high. -Checking to see whether the KPI's are being achieved e.g. Have passport issuing backlogs been reduced by the targeted 10%, or are police hours spent on patrol up by the sought after number? For its part, the Public Accounts Committee (PAC) would study the more detailed financial statements and check if the budgeted levels of value-for-money were achieved. The information available from the system would allow the PAC to hone in on any single line of expenditure, in any program, in any state institution - to establish if the targeted economies and efficiencies had been achieved. The PAC would rely on the annual SAI report to give assurance of the quality of the information in the financial reports. And then it would rely on the Audit Committee, through the risk analysis work of the Internal Audit Unit, to report on the state of financial, operational and systems compliance.

Now, as this is an anti-corruption conference, it should be noted how possibilities of fraud and corruption will be significantly restricted - due to the system's detail of information covering expenditure - and the actual value received from that expenditure. If for example more money was spent on any item or activity than what was budgeted, the detail would, on a monthly basis, be there to establish if the overspending was caused through a) an incorrectly costed budget, b) through an economy differential (i.e. if an official paid more than he/she need have paid for something, or c) through an inefficiency - where too few outputs were realized from the given inputs. In each of these cases, it will now be possible to establish what caused the discrepancy – and in the case of dishonesty it will be possible to discover who was involved and to take prompt and exact action to discourage its recurrence.

The Corporate Governance Setting

It is useful to conclude by considering the corporate governance context necessary for these new opportunities to be used effectively. These considerations are assisted when acknowledging the relevance of private sector governance arrangements and practices to public sector institutions and their particular relevance to the governance roles of the legislature and the executive. This can be understood by seeing:

- the Executive Government as being the equivalent of Management, and
- the Legislature as being the equivalent of the Board - which represents the shareholders interests (or the general public's interest in the case of the legislature).

This perspective is conceptually consistent with that of Parliamentary Democracies –

- where the Executive Government (Management) accounts to the Legislature (the Board) and
- where that Legislature (the Board) scrutinizes and oversees the performance of the Executive (Management).

With this understanding in place, the recent international corporate governance failings (Enron, WorldCom etc) and the corrective responses to their causes (i.e. irresponsible and corrupt managers, compliant auditors, inept boards of directors and poor disclosure and reporting regimes), are also relevant to the public sector.

Now, returning to the information produced by the reformed financial management approach, it can be seen that the extent to which this obligates executive governments to disclosure and to account to the legislature in an accurate, comprehensive and timeous way, in turn allows the legislature to play its governance role – which is to promptly scrutinize the information and where appropriate, to react to any problematic matters. This accountability and oversight occurs when the reports, which this paper has detailed, are tabled with the legislature for onward delegation to its committee structures

Concluding Comment

A central theme of this paper has been to argue that the reforms in question provide a sufficient basis from which to circumvent the situations which otherwise may lead to the "demise of the legislature" – insofar as these reforms can:

- Cement corporate governance arrangements (including the separation of powers) and the associated accountability and oversight requirements.
- Promote high ethical standards which are expected of both the executive and legislative arms of government.
- Make it difficult for the executive to suppress or manipulate information.
- Reduce the legislatures need for supportive resources (for investigation, analysis etc) – as the full and factual situations are clearly presented in the reports.
- Allow the media to more fully inform the public through the transparency and detail of information produced on government performance.

With the reforms in question leading to a more informed public, pressure is put on the executive to constantly strive to meet and better its performance commitments - as is pressure placed on the legislature to react to problems concerning executive government performance as would be revealed in the reports it receives. All-in-all a situation which raises and then juxtaposes executive accountability and legislative oversight in a way that can greatly advance the public interest..