

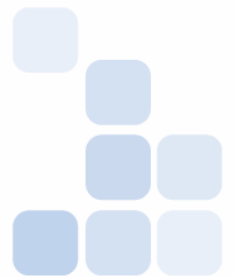
Victorian governance structures and the importance of primary healthcare

13 November, 2007



Overview

- Governance – what is it?
- Governance – whose responsibility?
- Governance failures
- Boards or bureaucrats – does it matter?
- The importance of primary healthcare
- Conclusion

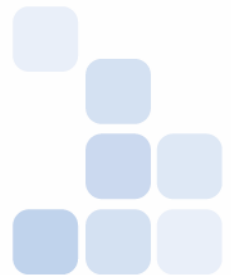


Governance – what is it?

- No universal agreement on the definition of governance or the structures that are necessary to achieve good governance

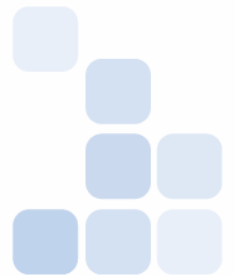
Corporate governance encompasses the arrangements by which the power of those in control of the strategy and direction of an entity is both delegated and limited to enhance prospects for the entity's long-term success, taking into account risk and the environment in which it is operating.

The Uhrig Report



Governance – what is it?

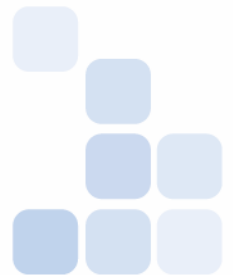
- Good governance typically is characterised by:
 - Strong, visionary leadership
 - Sound strategy
 - Effective policy
 - Sensible and clear delegations of authority
 - Role clarity
 - Effective monitoring of organisational performance
 - Clear systems of accountability
 - Strong risk management systems



Governance – whose responsibility?

“It is the Board’s responsibility to ensure good governance and to account to shareholders for their record in this regard.”

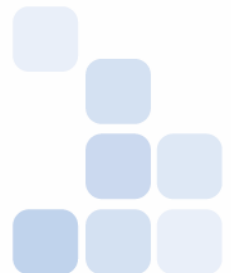
Sir Robert Hampel, UK Committee on Corporate Governance



Governance – whose responsibility?

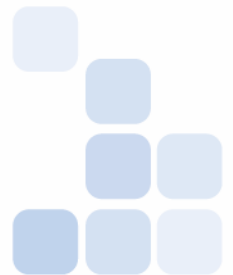
“After heading two health inquiries in NSW and South Australia, I have concluded that no one runs hospitals ... Hospitals in Australia have a life of their own with no clear lines of responsibility and accountability. Only the good sense of people in the system prevents it from descending into chaos. No one runs hospitals. Governance is fundamentally flawed A highly dysfunctional system in need of fundamental reform.”

John Menadue



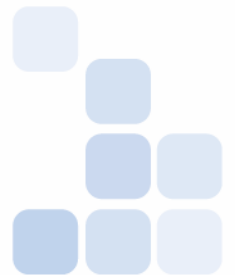
Governance – whose responsibility?

- If there is a board, the buck stops with the board:
 - shareholders of non-performing companies usually will change their boards
 - Directors who break the law (e.g. trading whilst insolvent) may go to jail or face very significant penalties
 - the main risk for Directors of public statutory authorities (e.g. health services) is reputational
 - all risks need to be managed



Boards or bureaucrats – does it matter?

- Most public hospitals in all states and territories are owned by Government
- In most states, Government runs public hospitals directly (owner-operated) – there is no independent governance structure
- Governance responsibilities are delegated from the Minister through the bureaucracy to hospital CEOs and via hospital CEOs throughout their management teams
- In one state only at present (Victoria) public hospitals are established as companies (under the Health Services Act) and are governed by independent boards of directors



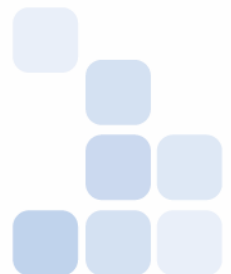
Boards or bureaucrats – does it matter?

“Responding to the clear voice of the local community the Commonwealth will support the establishment of a Mersey Community Hospital Trust, comprising regional local government, business and health profession leaders, to run the hospital on behalf of the community

.....

This plan has been put together by locals for locals. If the community consensus is to give it a go, and it involves no extra cost to the Tasmanian Government, I believe that this spirit of community self-help deserves encouragement and support.”

Prime Minister John Howard, 1/8/2007



Boards or bureaucrats – does it matter?

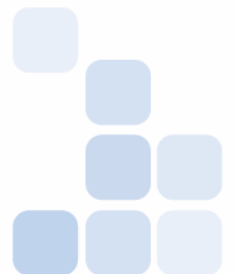
States reject hospital board proposal

“State Health Ministers have resoundingly rejected Tony Abbott's proposal as a tired concept, a diversion, and a sick joke.

The Health Ministers say putting local boards in charge of hospitals would simply add another level of bureaucracy to the system and drain the already limited resources.

They also point out that the system of hospital boards has been tested before and was generally found not to work.”

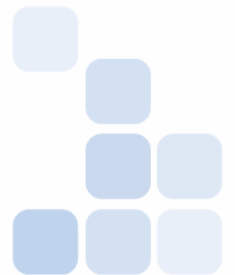
ABC radio, The World Today, 2/10/2007



Boards or bureaucrats – does it matter?

“The role of government is itself a defining factor in establishing appropriate governance arrangements for statutory authorities. Governments are held accountable by the electorate for the performance of government as a whole. Where statutory authorities are failing to perform adequately, the electorate will expect governments to act. Inevitably, therefore, there is a role for Ministers in the governance of statutory authorities.”

The Uhrig Report

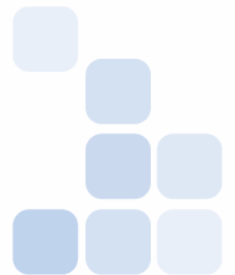


Boards or bureaucrats – does it matter?

Factors that diminish the effectiveness of public sector governance :

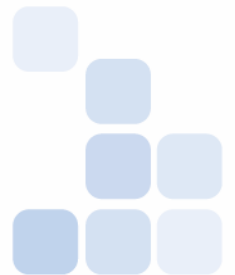
- Unclear boundaries in delegation
- Lack of clarity in relationships with Ministers and Departments
- Lack of accountability
- Difficulty recruiting people with requisite skills to the governing body

The Uhrig Report



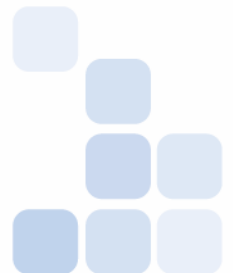
Boards or bureaucrats – does it matter?

- Will local community-controlled boards be ‘the answer’ to problems in Australia’s health care system?
- Is it possible for effective decisions which accord with the desires of the community to be made by community-controlled boards?
- What is the optimal organisational size? One hospital? A network of hospitals?



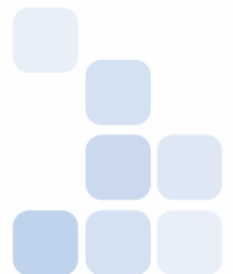
Boards or bureaucrats – does it matter?

- Possibly.....
- In Victoria, boards are considered to be working well
- It can be an effective model but it's not a 'magic bullet' which will solve all the problems of the health care system:
 - there is still a bureaucracy, and it has a significant role in managing the performance of hospitals and their boards
 - there is a significant cost (directors of metropolitan health boards in Victoria are remunerated at semi-commercial rates)
 - there is a large training investment
 - hospitals still face the problems of balancing demand, supply and quality
 - Ministerial/Departmental intervention has occurred in some hospitals



Boards or bureaucrats – does it matter?

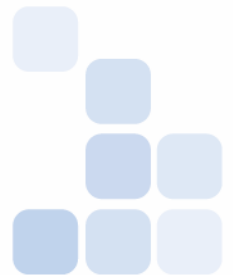
- Other observations about boards of governance of public hospitals:
 - a good bureaucracy can govern effectively – the key is appropriate delegation of authority and effective accountability systems
 - the health care system is extremely complex and daunting to many lay people who may be asked to play a governance role
 - many people are wary of the personal risks of being a director, particularly in a sector that is plagued by high inflation and a history of funding challenges
 - most states have tried and discarded hospital governing boards in favour of direct bureaucratic governance



Boards or bureaucrats – does it matter?

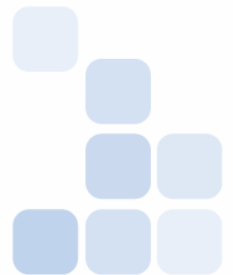
Issues that must be addressed when contemplating installing community-run boards:

- What if the board is unable to govern the entity effectively?
- How will the entity be capitalised?
- Will Government guarantee payment of creditors?
- How will the Board's performance be monitored?
- What if Government is not satisfied with the Board's performance?
 - Will the Minister and/or Departmental secretary have rights to direct the Board?
 - Will the Minister have 'step in' rights?



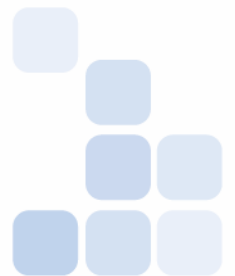
The importance of primary healthcare

- Concept of primary care first launched in 1978 at Alma-Ata
- Primary health care clients are individuals and communities
- Most policy experts and providers believe investment in primary care is a priority
- Communities support health promotion and illness prevention
- Many hospitalisations are clearly avoidable if better out-of-hospital preventive strategies were implemented



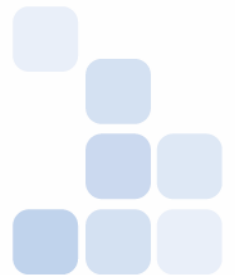
The importance of primary healthcare

- If we all agree, why isn't it happening?



The importance of primary healthcare

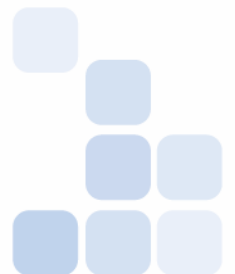
- There needs to be fundamental change to the way the system works
- The focus on hospital and medical care needs to change
- There are 'turf' issues
- The Commonwealth/State divide in health care is a significant barrier
- There are problems with 'immediacy' vs 'longer term'



The importance of primary healthcare

How does this relate to governance?

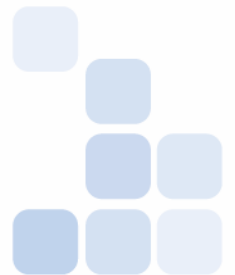
- Governing bodies have control over vision, mission and resources
- The owners of public hospitals (i.e. government) need to refocus their governing bodies (boards) on preventive rather than reactive health care
- This requires them to measure and reward different things (other than, e.g. waiting lists, emergency access) and take a longer term view of investment in health care
- Even if they do this, it will be extremely difficult to encourage governing bodies to divest themselves of services and budgets and refocus on out-of-hospital care including prevention, even if it is for the 'greater good'



The importance of primary healthcare

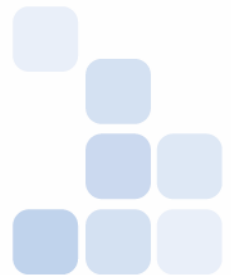
What is the role of governance?

- There is a strong argument for amalgamating primary, secondary and tertiary care (funded by either Commonwealth or State) under the one governance umbrella
- But with that would come accountability for outcomes.....
- It may be easier to continue with a system that enables blame-shifting



Conclusion

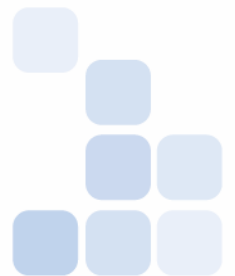
- Clinical and financial governance of health care organisations create particular challenges
- There are many examples of poorly-governed health care organisations
- Boards of governance operate well but not perfectly in Victoria
- Other states have tried and discarded them
- We are facing a ‘tsunami’ of demand for acute services
- There is an urgent need to improve prevention and early intervention and address appropriateness
- We know investing in primary health care makes sense, but what is the best governance model.....





Conclusion

-and will any government really be interested in it?





About DLA Phillips Fox

DLA Phillips Fox is one of the largest legal firms in Australasia and a member of DLA Piper Group, an alliance of independent legal practices. It is a separate and distinct legal entity.

For more information visit [**www.dlaphillipsfox.com**](http://www.dlaphillipsfox.com)

DLA Phillips Fox offices are located in Adelaide Auckland
Brisbane Canberra Melbourne Perth Sydney and Wellington.

A list of DLA Piper offices can be found at [**www.dlapiper.com**](http://www.dlapiper.com)